



Security Council

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**Letter dated 21 November 2008 from the President of the
International Tribunal for the Prosecution of Persons Responsible
for Serious Violations of International Humanitarian Law
Committed in the Territory of the Former Yugoslavia since 1991,
addressed to the President of the Security Council**

I am pleased to transmit herewith the assessments of the President (see annex I) and the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you would transmit these assessments to the members of the Security Council.

(Signed) Patrick **Robinson**
President



Annex I

[Original: English and French]

Assessment and report of Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Council resolution 1534 (2004)

1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph six of the resolution, requested the International Criminal Tribunal for the Former Yugoslavia ("International Tribunal") "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the International Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".¹

I. Introduction

2. Out of the 161 Accused indicted by the International Tribunal, only five Accused remain in the pretrial stage awaiting the commencement of their trials. With two Accused, Župljanin and Karadžić, having been arrested during the reporting period, only two Accused, Mladić and Hadžić, are still at large. A total of 26 Accused are presently in the course of trial and another 10 have appeals pending. All other cases have been completed. It is presently estimated that all but five of the International Tribunal's pending trials will be completed by the end of 2009. The trials of the four most recently arrived Accused are estimated to finish during the course of 2010, and as reported previously, due to slippage in the *Prlić et al.* multi-accused case, it is currently estimated that this trial may also run into 2010. However, while all efforts are being made to complete all trials as quickly and efficiently as possible, it now appears overly optimistic to claim that all appeals can be concluded during 2011, and it is likely that a small number will spill over to 2012. This estimate is clearly also subject to a number of factors that can impinge on the expeditious completion of trials and appeals such as illness of the accused, as well as failure of witnesses to appear and other similar unforeseen circumstances.

3. The three Trial Chambers of the International Tribunal maintained full productivity throughout the reporting period, and for a period of time, eight trials were heard simultaneously, with two separate sittings in each of the International Tribunal's three courtrooms from early morning into the evening. Both the seventh and eighth trial took advantage of the inevitable gaps in the scheduling of the six other cases such as the usual breaks between the close of the Prosecution and opening of the defence case, as well as a number of factors that have caused

¹ The present report should be read in conjunction with the previous nine reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; and S/2008/326 of 14 May 2008.

unforeseen delays, including those identified above. To expedite the conduct of trials, one of the Trial Chambers hearing a multi-accused case held additional hearings during the three-week summer recess period so as to make use of the extended availability of the International Tribunal's courtrooms at that time.

4. The following seven cases are currently in the trial phase: *Prosecutor v. Prlić, Stojić, Praljak, Petković, Čorić, and Pušić*; *Prosecutor v. Milutinović, Šainović, Ojdanić, Pavković, Lazarević, and Lukić*; *Prosecutor v. Popović, Beara, Nikolić, Borovčanin, Miletić, Gvero, and Pandurević*; *Prosecutor v. Perišić*; *Prosecutor v. Šešelj*; *Prosecutor v. Gotovina, Čermak, and Markač*; and *Prosecutor v. Lukić and Lukić*. One case, that of *Prosecutor v. Jovica Stanišić and Franko Simatović*, was adjourned due to the health condition of one of the Accused. It is not currently anticipated to start again before the new year.

5. The Chambers also dealt with a number of contempt cases during the reporting period. Many of these contempt cases arose out of the *Haradinaj et al.* case. Additionally, contempt cases were initiated against witnesses who refused to testify in the *Boškoski and Tarčulovski*, *Popović et al.* and *Šešelj* cases.

6. During this period, Trial Chamber Judges also managed seven cases in the pretrial stage, leading to the issuance of 107 written decisions and 20 oral decisions on such matters as the form of the indictment, challenges to jurisdiction, disclosure of evidence, protective measures for victims and witnesses, provisional release, adjudicated facts, and the admissibility of witness statements.

7. The Appeals Chamber also continued to work at maximum productivity in relation to appeals from both the International Tribunal and the International Tribunal for Rwanda. It rendered 21 interlocutory appeal decisions, two referral appeal decisions, one contempt appeal decision, one decision on review, and 13 other decisions since the last report.² It further delivered Judgement in four appeals, leaving a total of only seven appeals currently pending.³

8. Currently, only five Accused in four cases await the commencement of their trial before the International Tribunal. These new cases result from the late arrests of Tolimir, Đorđević, Župljanin, and Karadžić. One of these Accused, Župljanin, has been joined to the case of Mićo Stanišić. Two of them, Tolimir and Đorđević, could have been tried with their co-Accused if arrested earlier. However, due to their late arrests, each of them will now have to be tried separately. Karadžić will also have to be tried separately. However, if fugitive Mladić is arrested now, his case may be joined with that of Karadžić. Any further delay in his arrest, however, will in all likelihood result in the need for separate trials.

9. As mentioned in the last four reports to the Council, the International Tribunal continues to seek additional avenues for the transfer of convicted persons from the United Nations Detention Unit to States for the enforcement of their sentences. Two new agreements were signed during the reporting period with Poland and Albania. This brings the number of States which have signed enforcement agreements to 17.

² See Enclosures VI, VIII.

³ See Enclosure VII.

II. Measures taken to implement the Completion Strategy

A. Trial and appeal proceedings

10. The International Tribunal's commitment to meeting its Completion Strategy is demonstrated through the reporting to the Security Council of concrete measures adopted to enhance the efficiency of proceedings. Many of these measures were identified by the Working Groups on Speeding up Appeals and Trials. As President Pocar advised in his last report, both Working Groups were reconstituted in April 2008, not only to confirm the success of the measures adopted, but also to examine whether further improvements could be made to the efficient conduct of trials and appeals. Both Working Groups have now submitted their reports, and fresh recommendations are being implemented. The best illustration of the impact of these measures is provided below in the synopsis of cases before the International Tribunal. Additionally, those matters out of the control of the International Tribunal which have delayed the efficient conduct of proceedings are detailed in the cases in which such issues have arisen.

11. In the multi-accused case of *Milutinović et al.*, the six Accused are charged with five counts of war crimes and crimes against humanity allegedly committed by Serbian forces in 15 municipalities of Kosovo in the period between 1 January to 20 June 1999. The Prosecution case closed within the prescribed time on 1 May 2007. The Trial Chamber restricted the time allowed for the presentation of the Defence case pursuant to Rule 73 *ter*, as it had previously done under Rule 73 *bis* with respect to the presentation of the Prosecution case. The Defence case started in August 2007, and the Trial Chamber held sessions during the summer recess between 6 and 17 August 2007. The evidence presented by the Parties in the case ended on 16 May 2008. Thereafter, the Chamber invited evidence from Chamber witnesses. Efforts to obtain the testimony of one of these witnesses required intervention due to a failure of cooperation by the Government of Serbia. When this lack of cooperation was reported to the Security Council, Serbia acted to serve the subpoena to the Chamber witness, who eventually testified on 8 and 9 July 2008. This delayed closing arguments in the case by two weeks. Following closing arguments, which ended on 27 August 2008, the Chamber declared the evidence closed and adjourned to deliberate on the judgement in the case. The judgement is expected to be delivered shortly.

12. In the case against *Vojislav Šešelj*, the Accused is charged with fourteen counts of crimes against humanity and violations of the laws or customs of war allegedly committed in the territory of Croatia, in large parts of Bosnia and Herzegovina and in Vojvodina (Serbia), from August 1991 until September 1993. The first Prosecution witness was heard on 11 December 2007. Of the 100 witnesses scheduled by the Prosecution, the Trial Chamber has thus far heard 50 witnesses. The Prosecution has used approximately 91 hours of the 120 hours granted by the Trial Chamber. While the presentation of evidence was scheduled to last one year, a number of important and unforeseen delays have occurred since the commencement of trial, including a motion for disqualification of one of the Judges, and difficulties experienced by the Prosecution in getting witnesses to testify. In order to expedite the proceedings, the Trial Chamber has decided to make use of Rule 92 *ter* evidence for at least 13 witnesses, despite the constant refusal of the Accused to accept this process and to cross-examine any witness whose testimony was presented under Rule 92 *ter*. There was further delay occasioned by the filing of a motion to impose

counsel, as well as other confidential filings which resulted in the adjournment of the proceeding for more than one month. One contempt proceeding was also heard in relation to this case for a witness who refused to honour a subpoena to appear as a Chamber witness. There are additionally multiple pending requests for subpoenas, which the Prosecution submits are required due to alleged intimidation of witnesses. All of these factors have led to delays in the trial proceedings.

13. In the multi-accused case of *Prosecutor v. Prlić et al.*, the six Accused are charged with 26 counts of war crimes and crimes against humanity, related to approximately 70 crime sites, allegedly committed by Bosnian Croats against Bosnian Muslims in Bosnia and Herzegovina between the period of 18 November 1991 to about April 1994. The trial opened on 26 April 2006. The Prosecution completed the presentation of its evidence after 21 months of trial on 24 January 2008, using 297 hours of court time for direct and re-examination of its witnesses. Oral arguments under Rule 98 *bis* were heard between 28 January and 6 February 2008, and the decision denying a Judgement for acquittal was issued on 20 February 2008. The six Defence teams presented their lists of witnesses and exhibits pursuant to Rule 65 *ter* (G) on 31 March 2008. The pre-Defence conference and the start of the Defence case commenced on 21 April and 5 May 2008, respectively. Based on the complexity of the case and the fact that the Defence teams representing each of the six Accused are to present their respective cases, it is anticipated at this stage that hearings will continue into 2010. It is likely that this estimate will represent the minimum length of time needed for the case. There have been delays occasioned in the presentation of the first Defence case due to the unavailability of witnesses, and more recently, due to the incomplete disclosure of materials by the Defence in accordance with the Rules.

14. The trial of *Prosecutor v. Gotovina, Čermak, and Markač*, who are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia in 1995, started on 11 March 2007. More than half of the 112 Prosecution witnesses have been heard to date. The Prosecution has tendered witness statements made pursuant to Rule 92 *ter* for all of its *viva voce* witnesses, which has enabled it to stay well within the hours allotted by the Trial Chamber for the presentation of evidence. A by-product of extensive use of Rule 92 *ter* witnesses, however, has been an increase over earlier estimates of the time needed for cross-examination by the Defence teams. The primary procedural issue currently affecting the trial concerns the Prosecution's request for certain documentation which has not been provided by the Croatian government. The Prosecution has requested that the Trial Chamber order Croatia to produce this documentation, and a decision on this matter is pending. Trial proceedings are still estimated to take 18 months to complete.

15. The trial in the case of *Prosecutor v. Rasim Delić* commenced on 9 July 2007 and was expected to last for a year. The Trial Chamber sat 114 trial days and heard evidence from 64 Prosecution witnesses and 13 Defence witnesses. Closing arguments were presented from 9 to 11 June 2008, 11 months after the trial began. The Trial Judgement was rendered on 15 September 2008.

16. The trial of *Prosecutor v. Momčilo Perišić* began on 2 October 2008. The Accused is charged with 13 counts in relation to crimes alleged to have been committed in Sarajevo, Zagreb, and Srebrenica (eight counts of crimes against humanity and five counts of violations of the laws or customs of war). The trial is

estimated to take 24 months to complete. As with the *Gotovina et al.* trial, the Prosecution will be making extensive use of Rule 92 *ter* evidence in its case-in-chief in order to reduce the length of trial. Additionally, the Prosecution brought several motions under Rule 94 for judicial notice of adjudicated facts to trim the presentation of its case. Most of these were granted in whole or in part. Five decisions taken prior to the trial on the judicial notice of adjudicated facts eliminated the need for many witnesses to appear in person to testify on crime sites in Sarajevo, Srebrenica, and Zagreb. In total, the Trial Chamber reduced the Prosecution's proposed number of trial hours for presentation of its case-in-chief by 60 per cent from 907 hours when the case was assigned to the Trial Chamber on 20 March 2008 to 355 hours by the time the trial started on 2 October 2008.

17. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the two Accused are charged with four counts of crimes against humanity and one count of war crimes. The commencement and progress of this trial has been significantly delayed due to the poor physical and mental health of the Accused Jovica Stanišić. A decision confirming Stanišić's fitness to stand trial was issued on 10 March 2008. The decision also provided for a reduced sitting schedule to accommodate the Accused's ongoing health problems. Originally intended to start in March, the trial was delayed from early March 2008 to the end of April 2008. Hearings to examine medical experts and to hear arguments on the future management of the trial were held in early April 2008, and a decision was issued on the future course of the proceedings, establishing a videoconference link with the Detention Unit for use by this Accused. On 28 April, the pretrial conference was held and the trial commenced, with opening statements being heard in the absence of the Accused. The Accused did not utilize the videoconference link. One witness was heard in the absence of the Accused before the proceedings were again adjourned due to his physical illness and subsequent hospitalization. In May 2008, the Appeals Chamber issued a ruling overturning the Trial Chamber's decision to establish the videoconference link and granted the defence request for adjournment of the proceedings for a minimum period of three months. It also required the Trial Chamber to reassess the Accused's state of health before considering when the trial should re-commence. On 26 May 2008, the Trial Chamber granted provisional release to Belgrade for both Accused and implemented a complex procedure for monitoring the health of Jovica Stanišić, involving both his treating physicians in Belgrade and independent experts appointed by the Tribunal. The minimum three-month period of adjournment has now expired, and the Chamber is in the process of reviewing the various medical reports prior to making any further decision as to the future course of these proceedings.

18. Throughout May 2008, Trial Chamber III sought to identify another case that could commence on short notice. After consultations between the President of the Tribunal and myself, as the presiding Judge of the Trial Chamber, a decision was made to commence the trial of Milan Lukić and Sredoje Lukić, a case already assigned to the Chamber and which was nearing readiness for trial. The *Lukić and Lukić* case commenced on 9 July 2008, and witnesses were heard before the summer judicial recess. The Prosecution case closed on 11 November, after calling 40 witnesses. A decision pursuant to Rule 98 *bis* was issued on 13 November, and the first Defence case is scheduled to commence shortly.

19. The Indictment in the *Popović et al.* case, which has seven Accused, contains eight counts, including charges of genocide and crimes against humanity allegedly

committed at 20 different crime sites. The original estimate for the length of the trial was 29 months, and the Trial Chamber has continued to issue orders that have expedited the proceedings. On 29 November 2007, the Trial Chamber issued an order scheduling the close of the Prosecution case-in-chief for 1 February 2008, the start of the hearing of the Rule 98 *bis* submissions for 14 February 2008, the Pre-Defence Conference for 22 May 2008, and the commencement of the Defence Case for 2 June 2008. The Prosecution case was completed on 7 February 2008, and the Defence Case commenced as planned on 2 June 2008. At the Pre-Defence Conference, the Trial Chamber raised with the Defence Teams the possibility of reducing the length of their cases, and subsequently some witnesses were dropped, while the testimony of others was shortened by the use of Rule 92 *ter*.

20. Stojan Župljanin was arrested on 11 June 2008, and on 21 June 2008, he was transferred to the seat of the Tribunal. At his further appearance on 21 July 2008 he entered a plea of not guilty on all charges in the Indictment.

21. Before the arrest of Stojan Župljanin, the case against *Mičo Stanišić* was at an advanced stage of pretrial preparation, the Prosecution and Defence Pre-trial Briefs having been filed in early 2007. Following the arrest of Stojan Župljanin, the Prosecution moved for a joinder of the case against *Mičo Stanišić* with that of *Stojan Župljanin*. On 23 September 2008, the Chamber granted leave to the Prosecution to join the two cases and further granted in part a Prosecution motion to amend the Indictment. As a result, on 29 September 2008, the Prosecution filed a new consolidated Indictment against the two Accused. The joinder can be expected to have an impact on the anticipated start-date of the joint trial and will facilitate the efficient use of court time.

22. Turning to the *Tolimir* case, Zdravko Tolimir was transferred to the seat of the Tribunal on 1 June 2007. In August 2007, he elected to conduct his own defence. Since the beginning of 2008, two legal advisers and a case manager have been assigned to his Defence team. On 14 December 2007, the Trial Chamber issued a decision on his preliminary motions. From the beginning of the case, Tolimir had refused to accept documents on the ground that they were not written in "Serbian and the Cyrillic script". On 28 March 2008, the Appeals Chamber dismissed the Accused's appeal against the Pre-Trial Judge's oral decision that denied his request for the service of documents in Serbian and the Cyrillic script. During a status conference held on 30 June 2008, the Pre-Trial Judge informed the Accused that his behaviour amounted to "substantial and persistent obstruction" and was impeding the expeditious advancement of the case, warning him that, unless he was prepared to accept all material which had been and would be provided to him in the Bosnian/Croatian/Serbian language, whether in the Latin or the Cyrillic script, the Trial Chamber would issue an order for the appointment of counsel. Following this, the Accused, through his legal advisers, started accepting all documents served in this case by the Registry and the Prosecution. On 15 October 2008, the Prosecution filed its Rule 65 *ter* witness list, witness summaries, and exhibit list.

23. In the *Dordević* case, the Accused made his initial appearance on 19 June 2007. This case is trial ready and awaiting assignment to a Trial Chamber.

24. In addition to the cases outlined in the above paragraphs, Trial Chambers also heard a number of contempt cases. The contempt case against Dragan Jokić is drawing to a close. The contempt proceedings were initiated following Jokić's refusal to testify in the case of *Prosecutor v. Popović et al.* The Trial Chamber

decided to prosecute the matter itself and issued an Order in Lieu of Indictment on Contempt on 1 November 2007. To date, two hearings have been held, in which Jokić has led evidence from two witnesses and tendered several exhibits. Trial Chamber I is also currently considering five contempt cases in various stages of pre-Indictment investigation or post-Indictment, pretrial processing, three of which arise from the *Haradinaj et al.* case. Of the three *Haradinaj et al.* related contempt proceedings, two trials have already been held. One of the two trials, *Prosecutor v. Baton Haxhiu* (IT-04-84-R77.5), took place on 24 June 2008. On 24 July 2008, Haxhiu was found guilty of contempt of the Tribunal and sentenced to a fine of 7,000 Euros. The other trial, *Prosecutor v. Astrit Haraqija and Bajrush Morina* (IT-04-84-R77.4), was held from 8 to 11 September 2008. The Trial Judgement is expected to be delivered in December 2008. The third *Haradinaj et al.* related contempt case, *Prosecutor v. Shefqet Kabashi*, is still pending his arrest and transfer to The Hague. Finally, contempt proceedings were also initiated and completed against Ljubiša Petković for failure to comply with a Chamber order in the *Šešelj* case.

25. With regard to the Appeals Chamber, three appeals Judgements were issued during the reporting period in the *Orić* (3 July), *Strugar* (17 July) and *Martić* (8 October) cases, in addition to one contempt Judgement (*Haxhiu*, 4 September) and one review decision (*Blagojević*, 15 July). There are currently six appeals from Judgement and one request for review pending before the Appeals Chamber. A decision on the request for review in the *Naletilić* case is expected before the judicial recess. Of the six pending appeals, hearings have already been held in the *Krajišnik* case, with regular appeal hearings held on 21 August and further evidentiary hearings on 3, 5 and 11 November, including the appearance of Radovan Karadžić as a witness. Furthermore, it is currently anticipated that the hearings in the *Mrkšić et al.* case will take place in mid-January 2009. The *Haradinaj et al.* case will likely be heard in the first quarter of 2009, and the *D. Milošević* case is also expected to be heard shortly thereafter. Briefing is still under way in the *Boškoski & Tarčulovski* case as well as the *Delić* case. Completion of briefing in the former will be delayed slightly until mid-January 2009 pursuant to a request from the Appellant following the appointment of new lead counsel on appeal. Further, motions to introduce additional evidence pursuant to Rule 115 were brought in both the *Krajišnik* and *Mrkšić et al.* appeals, which has resulted in some delays and may result in further delays, depending on whether the motions are granted.

26. A further development impacting on the completion strategy was the arrest on 18 July 2008 of the fugitive Radovan Karadžić. Following his transfer to the Tribunal on 30 July 2008, the Accused entered an initial appearance on 31 July 2008 and a further initial appearance on 29 August 2008. The case is in the pretrial stage. The Accused has thus far insisted on serving as his own counsel.

27. In the first Completion Strategy Report submitted to the Security Council in May 2004, the Security Council was advised that a total of eight Accused were being tried in six cases and that in the nine years following its establishment, the International Tribunal had completed or was holding first instance proceedings involving 59 Accused in 38 proceedings.⁴ There were a total of 33 Accused awaiting trial in 17 cases,⁵ appeals had been completed in 20 cases involving 28 Accused,⁶

⁴ S/2004/420, para. 2.

⁵ S/2004/420, Annex 3.

⁶ S/2004/420, Annex 4.

and 20 fugitives were at large. Today, only four years later, only five Accused are in the pretrial stage,⁷ 26 Accused are currently on trial,⁸ trial proceedings against 67 Accused have been completed and appeals have been completed in 34 cases involving 54 Accused. It is only the two indictees that still need to be brought to face justice, and their apprehension relies upon the cooperation of the international community.⁹ The achievements of the International Tribunal far surpass that of any other international or hybrid court and demonstrate the commitment of the International Tribunal to the expeditious completion of its mandate.

B. *Ad litem* Judges

28. The *ad litem* Judges have continued to make an outstanding contribution to expediting to the International Tribunal's work. Currently, the International Tribunal has fourteen *ad litem* Judges, and I am grateful to the members of the Security Council for resolution 1800 of February 2008, which authorized the assignment of up to four additional *ad litem*s. Upon issuance of the Trial Judgement in the *Milutinović et al.* case, expected early next year, the number of *ad litem* Judges will be eleven, one less than permitted under the Statute of the International Tribunal. All *ad litem*s are fully engaged in the work of the International Tribunal. Of these fourteen, one *ad litem* judge is serving as full *ad litem* Judge on two cases.

29. *Ad litem* Judges who have not been assigned to an additional trial are fully engaged in the preparation of new cases for trial. Accordingly, all fourteen *ad litem* Judges have been willing to take on an onerous workload to ensure the expeditious completion of the International Tribunal's mandate and to secure the continued support of the Council and of Member States.

C. Judges and staff retention

30. As the International Tribunal nears the end of its mandate, it continues to consider and pursue the adoption of measures to ensure the retention of its most qualified staff, who are leaving the International Tribunal in increasing numbers for more secure employment with other international courts and institutions. As previously reported, the departure of experienced staff members hinders the International Tribunal's ability to expeditiously complete the mandate entrusted to it by the Security Council. Yet existing staff retention incentives have proved insufficient. Thus, support from the Security Council and Member States in developing additional incentives is of vital importance.

31. The International Tribunal also continues to seek a positive resolution to the long-outstanding issue of the legal entitlement of its Judges to receive pensions in full parity with those received by the Judges of the International Court of Justice. Although the independent consultant's study commissioned by the Secretary-General recommended that the Judges receive equivalent pensions, this issue remains unresolved. The International Tribunal must once again emphasize that a resolution of this issue is key to the retention of its highly skilled and experienced Judges and is critical to guaranteeing the timely completion of the International Tribunal's mandate.

⁷ See Enclosure IV.

⁸ See Enclosure II.

⁹ See Enclosure III.

D. Referral of cases involving intermediate and lower-ranking accused to competent national jurisdictions

32. The impact of referrals on the overall workload of the International Tribunal has been substantial. Ten Accused have been transferred to the War Crimes Section of the State Court of Bosnia and Herzegovina, two Accused have been transferred to the authorities of Croatia, and one Accused has been transferred to Serbia for trial before the domestic courts of these countries.¹⁰ However, none of the cases currently pending on the Tribunal's docket are cases involving lower level or intermediate accused as stipulated in Security Council resolutions 1503 and 1534, and as a result, none of the Tribunal's remaining cases can be considered for referral to domestic courts.

33. The Prosecution continues to monitor the trials referred to the region through the Organization of Security and Cooperation in Europe (OSCE). Under Rule 11 *bis*, the Prosecution has the authority to request the Referral Bench to revoke its referral order should it determine that such a case is not being conducted in full adherence with human rights norms and due process standards. The War Crimes Section of the State Court of Bosnia and Herzegovina has completed two cases referred by the International Tribunal, one is at the appeal stage, and three trials are ongoing. On 28 March 2007, proceedings against the first Accused referred, Stanković, came to a close with the Appellate Panel of the Court of Bosnia and Herzegovina sentencing him to 20 years' imprisonment. On 25 May 2007, Stanković escaped from prison and is currently at large. The International Tribunal remains gravely concerned about the lack of progress on behalf of the relevant authorities in apprehending Stanković and prosecuting those allegedly responsible for assisting his escape. On 16 February 2007, the trial of Janković concluded with the Court finding him guilty of crimes against humanity and sentencing him to 34 years' imprisonment. On 23 October 2007, the Court of Bosnia and Herzegovina Appellate Panel upheld the Trial Panel's sentence. The first-instance Judgement in the case of Rašević and Todović was pronounced on 29 February 2008, finding the Accused guilty of crimes against humanity and sentencing them to 8.5 years' and 12.5 years' imprisonment, respectively. Appeal proceedings are currently pending. On 30 May 2008, the Court of Bosnia and Herzegovina pronounced the first-instance Judgement against Mejakić, Gruban, and Knežević, sentencing the Accused to 21 years', 11 years', and 31 years' imprisonment, respectively, for crimes against humanity. The trial in the Trbić case started on 8 November 2007 before the Court of Bosnia and Herzegovina and is ongoing. The trial in the single case referred by the International Tribunal to Croatia, that of Ademi and Norac, concluded on 30 May 2008 with the Zagreb County Court acquitting Ademi of all charges and sentencing Norac to 7 years' imprisonment for war crimes. Appeal proceedings are pending. In the Kovačević case, the only one referred to Serbia, the Belgrade District Court found on 5 December 2007 that the state of mental health of the Accused temporarily prevented criminal prosecution. The International Tribunal is satisfied that these proceedings are being conducted in full compliance with international norms of due process as recognized by the reports of the OSCE and other human rights organizations.

¹⁰ See Enclosure V.

E. Outreach and capacity-building

34. The International Tribunal continues to conduct a wide range of outreach activities with the aim of bringing its work closer to communities of the former Yugoslavia. The efforts of its Outreach Programme and other offices are focused on several key areas, including the facilitation of trial coverage by the local media, direct community outreach by its officers on the ground, and capacity-building efforts with national judicial institutions dealing with war crimes.

35. The media from the region continues to receive crucial assistance in securing access to trials through the Tribunal's website and direct contact with Outreach and Media offices in The Hague and the region. During the reporting period, such efforts played a crucial role in increasing media coverage on the arrests and trials of high-profile accused and helped the International Tribunal reach audiences across the former Yugoslavia. In the busiest month, September, the Tribunal's website recorded over ten million page hits. Webcasts of the trials continued to attract considerable audiences.

36. Outreach officers on the ground in Bosnia and Herzegovina, Croatia, and Serbia continue to participate in a variety of public events, communicating directly with the most affected communities, legal professionals, public officials, and civil society leaders. Often countering myths and misperceptions about the International Tribunal and its proceedings, the Outreach Programme's staff members in the former Yugoslavia engage the public on a regular basis, by speaking at public events and to local media, giving lectures and presentations and disseminating documents and information materials. During the reporting period, Outreach staff in Serbia began a programme of public debates and media appearances alongside Serbian government officials.

37. In addition, the regional Outreach offices remain the main focal points for the International Tribunal's capacity-building efforts in the region. In cooperation with outside agencies and organizations, our offices have actively supported various training programmes, including visits to the Tribunal and seminars conducted on the ground. While many such activities are aimed at lawyers, the transfer of expertise can also benefit other professionals involved in war crimes proceedings. During the reporting period, staff of the International Tribunal have, for instance, provided training to the Belgrade District Court's security guards and witness support staff.

38. The International Tribunal continues to promote leadership and support for the rule of law among key youth audiences in the former Yugoslavia through educational programmes and exchanges organized by the Outreach Programme. A groundbreaking initiative in this respect is an internship programme developed jointly with a civil society organization based in Serbia. The second group of Serbian students selected and sponsored through this project has started interning at the International Tribunal. Immediately afterwards, they will proceed to do internships in national judicial institutions and non-governmental organizations, thereby benefiting the local structures that are essential for a lasting peace and rule of law in the region.

F. Cooperation of States with the International Tribunal

39. I am pleased to note a clear demonstration of support from the international community in the arrest and transfer of two of the high-level remaining fugitives:

Karadžić and Župljanin. I hope that the arrests and transfer of the remaining fugitives, Mladić and Hadžić, will shortly follow. As past Presidents have made clear on many occasions, the International Tribunal must not close its doors until these fugitives are arrested and tried. I once again ask all States to cooperate in full adherence with their obligation to do so under Article 29 of the Statute of the International Tribunal, and I urge the Security Council to make clear that the trial of these fugitives by the international community does not hinge upon the International Tribunal's proposed Completion Strategy dates.

III. Legacy of the International Tribunal and residual mechanisms

40. As previously reported by past Presidents, for almost three years now, the International Tribunal has been focusing its attention on the important question of devising the mechanisms that will be left in place to address residual issues after the completion of the cases on its docket. Following the final report submitted by the International Tribunal jointly with the Tribunal for Rwanda to the Office of Legal Affairs in September 2007, representatives of the Tribunal have met several times with members of the Security Council Working Group on the ad hoc Tribunals and provided important additional clarifications on some of the issues raised in the September Report. With a view to enhancing their understanding of the multiple and complex questions linked to the establishment of a residual mechanism, President Pocar also took the initiative of inviting members of the Security Council Working Group for a visit of the International Tribunal on 1 and 2 October 2008. This visit provided the Tribunal with a unique opportunity to present its work and achievements and for members of the Working Group to directly seek the views of the judges and senior staff of the International Tribunal on the nature and functions of the future residual mechanism. This visit proved extremely beneficial, as it enabled members of the Working Group to obtain unique insights into the daily work of the International Tribunal and the legal, procedural and logistical challenges of complex international criminal proceedings. On 30 September 2008, we also received the final report of the Advisory Committee on Archives, which had been established jointly by the Registrars of the International Tribunal and of the International Criminal Tribunal for Rwanda in October 2007. The report addresses a number of key issues such as the location, public access, security, and preservation of the International Tribunal's records and has been communicated to the Working Group with a view to providing it with an informed understanding of the archive issues.

41. Aside from the institutional and legal questions arising from the devising of a residual mechanism, the broader question of the legacy of the International Tribunal's work for international as well as domestic courts and for advocates engaged in the fight against impunity has become one of our priorities. With the work of the Tribunal progressively winding down, we have multiplied our efforts in this regard and initiated a number of ambitious projects which seek to offer a comprehensive yet concise record of our jurisprudence, methods, and practices. As previously reported, we have elaborated a compilation of our best practices, which has now been finalized and will be published shortly and disseminated by the United Nations Interregional Crime and Justice Research Institute (UNICRI), which has been partnering with us in this endeavour. Another project, for which we benefit from the assistance of the OSCE, will offer an assessment of current outreach activities and training programmes in countries of the former Yugoslavia in order to

identify lessons learned and best practices. The results will serve in designing a capacity-building, technical assistance programme to meet the needs of the local justice systems responsible for dealing with war crimes cases. The design and consultative stages of the project ended with the convening of an expert meeting in October 2008, during which participants launched the discussion of best practices and lessons learned by sharing their relevant expertise. Next steps include field interviews with international agencies engaged in similar activities, leading academic institutes, international non-governmental organizations, civil society actors, and local authorities from the region, which will culminate in a final report that is expected to be issued in mid-2009.

IV. Conclusion

42. During the reporting period, the International Tribunal has pursued its efforts to meet completion strategy targets and strived to further streamline its proceedings in full compliance with due process standards. The slippages foreseen in estimated completion dates are for the most part attributable to the late arrests of fugitives, whose trials should be completed in the course of 2010 and whose appeals are thus unlikely to be concluded in 2011. In this regard, I cannot overstate the importance of ensuring the immediate arrest of the two remaining fugitives, so as to limit to the greatest extent possible further slippages in completion schedules and without which the International Tribunal's work cannot be fully completed. While the International Tribunal's judges and staff continue to be fully committed to improving the expeditiousness of the International Tribunal's proceedings through the identification and implementation of new measures, I must reiterate to the Security Council that such commitment must be matched by the Council's support for measures to retain the Tribunal's most qualified judges and staff. I thus urge the Security Council to ensure that the conditions of service of Judges of the International Tribunal are fully respected and that adequate retention schemes will be adopted so that the Tribunal is able to keep its essential staff. I must also restate that domestic judicial institutions in the former Yugoslavia are crucial partners in the development of a peaceful society based on the rule of law, to whom assistance and support must continue to be granted so as to guarantee the International Tribunal's long lasting legacy and the continuation of its work.

43. The International Tribunal will be remembered as the first and most successful international criminal institution established thus far, indicting 161 individuals, and completing proceedings for 116 of them. In order to ensure that the achievements accomplished endure, I call on the Security Council to maintain its vital support to the International Tribunal, to ensure the immediate arrest of the last two fugitives so that its remaining cases can be completed expeditiously and to provide assistance to judicial institutions in the former Yugoslavia to enable them to continue the work started by the International Tribunal and the Security Council.

Annex II

[Original: English and French]

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

Introduction

1. This is the tenth report submitted by the Prosecutor pursuant to Security Council resolution 1534 (2004) of 26 March 2004.
2. During the past six months, the Office of the Prosecutor has continued to make progress towards achieving the completion strategy goals. Stojan Župljanin and Radovan Karadžić were arrested in June and July respectively, and are now in The Hague awaiting trial. Only two accused, Ratko Mladić and Goran Hadžić, are still at large. It is crucial that these fugitives are arrested and tried at the International Tribunal as soon as possible.
3. During this reporting period, the Office of the Prosecutor continued to focus on four priorities: (1) completing trials and appeals; (2) securing international cooperation for the provision of evidence and for the arrest of fugitives; (3) transferring cases and investigative material to national authorities and assisting the transition back to domestic jurisdictions; and (4) managing resources in a way that prepares for the ultimate downsizing of the Office of the Prosecutor as trials and appeals are completed.

The completion of trial and appeal proceedings

4. The Prosecutor remains strongly committed to the Tribunal's completion strategy and since the last report to the Security Council in May 2008 further progress has been made in its implementation.
5. The crimes that merit prosecution in the international forum are by definition broad and complex. Most involve widespread attacks on civilian populations in which thousands of innocent people are victimized. Each of the cases that are now before the Tribunal involves senior figures from the conflict in the former Yugoslavia. Cases involving lower or mid-ranking accused have been removed from the Tribunal's docket, some being transferred for trial in the States of the former Yugoslavia. A number of the current cases (the "multi-leadership trials") involve the prosecution of six or more political or military leaders. Bringing evidence forward to prove charges of the magnitude contained in the Tribunal's indictments is a substantial undertaking in every case and remains a major challenge.

Trials

6. That challenge has continued to be met during the last six months, with the result that progress has been made in addressing the length of trials and in moving through the Tribunal's trial programme. Across the board, further steps have been taken by the Prosecution to shorten the length of trials. In most cases the scope of the criminal conduct charged has been reduced. Wherever possible, prosecutors

have sought defence agreement on uncontroversial facts, thus avoiding the need to lead evidence on these points. Trial Chambers have been requested to take judicial notice of adjudicated facts or documentary evidence from other proceedings, again reducing the need to call witnesses. Prosecutors have also made extensive use of the provisions in the Tribunal's Rules which allow written evidence to be presented in lieu of oral testimony, thereby avoiding having to bring many witnesses to The Hague, and reducing the length of the live testimony of many witnesses who do appear in court.

7. During the reporting period, trial judgements were rendered in the *Boškoski and Tarčulovski* and *Delić* cases on 10 July 2008 and 15 September 2008, respectively. At the end of the reporting period, the Office of the Prosecutor is prosecuting 26 persons in seven trials: *Milutinović et al.* (judgement awaited), *Popović et al.*, *Prlić et al.*, *Gotovina et al.*, *Šešelj*, *Perišić*, and *Lukić and Lukić*. The trial started in a further case, *Stanišić and Simatović*, but has now been adjourned pending an assessment of the health of the first accused. Five accused are currently awaiting trial: Stojan Župljanin and Mićo Stanišić, Vlastimir Đorđević, Zdravko Tolimir and Radovan Karadžić. Only two fugitives, Ratko Mladić and Goran Hadžić, remain at large.

8. The closing arguments in *Delić* were heard in mid-June 2008 and the judgement was rendered on 15 September 2008 after 115 days of trial. Rasim Delić was the highest ranking officer of the Army of Bosnia-Herzegovina to be tried before the International Tribunal. His conviction under Article 7(3) of the Statute refuted the argument that the foreign fighters who came to Bosnia-Herzegovina from all over the world, were not a part of the army of which he was the commander.

9. The case against *Milutinović et al.* was the first of the three multi-leadership trials to complete its evidence. The case addresses the widespread and serious crimes which were committed against the Kosovo Albanian population in the territory of Kosovo in 1999. The six accused comprise high-ranking members of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Yugoslav Army (VJ) and the police. They include Milan Milutinović, the former President of Serbia and member of the Supreme Defence Council of the Federal Republic of Yugoslavia and Nikola Šainović, the former Deputy Prime Minister of the Federal Republic of Yugoslavia. The Prosecution had closed its case on 1 May 2007, after 127 days of evidence. The Trial Chamber heard the parties' closing arguments from 19 August until 27 August 2008 and the Trial Chamber's judgement is now expected to be issued in early 2009. The completion of the trial is a milestone for the Tribunal and vindicates the use of joinder as one of the key pillars of the Tribunal's completion strategy. The proceedings lasted for 285 trial days in which 1,087 hours of court time were used, 36 per cent of that time being taken by the Prosecution, which made effective use of written evidence in lieu of oral testimony.

10. It is expected that *Popović et al.* will be the second multi-leadership trial to be completed. The case began on 14 July 2006. In this case, the seven accused were all high ranking members of the Bosnian Serb Army (VRS) and the Ministry of Interior. The charges relate to the murder of over 7,000 men and boys from Srebrenica and the removal of the entire Muslim population from Srebrenica and Žepa in 1995. The Prosecution case closed on 7 February 2008 and the case is now well into the defence phase. Only the defence cases of three accused remain to be heard and it is

currently estimated that the hearing of the evidence will finish in the early part of 2009. The Srebrenica evidence, which has also been led in other cases, is expected to constitute one of the principal building blocks of the *Karadžić* case.

11. In the third multi-leadership trial, *Prlić et al*, the Prosecution was initially granted 293 hours to present its evidence. The Prosecution case opened in April 2006 and was closed in January 2008. The trial has therefore been in the defence phase for over six months and is proceeding slowly. The case concerns crimes committed in areas of the territory of the Republic of Bosnia and Herzegovina which were claimed to be part of the Croatian Community of Herceg-Bosna (HZ H-B) and later the Croatian Republic of Herceg-Bosna (HR H-B). The six accused include Jadranko Prlić, the former President of the HZ H-B and Prime Minister of HR H-B, high ranking members of the Croatian Defence Council (HVO) and Slobodan Praljak, a senior Croatian Army officer and the former Assistant Minister of Defence and senior representative of the Croatian Ministry of Defence to the Herceg-Bosna/HVO government and armed forces. The defence case for the first accused began in May 2008 and it is due to be completed in mid-January 2009. The cases of each of the five other accused will continue thereafter. On the basis that the Court sits four days a week, it is currently estimated that the case will finish in mid-2010. Careful monitoring is made of how the court time is allocated and spent. This is a complex trial, a particular feature of which is the percentage of court time devoted to procedural and administrative issues rather than witness testimony. The court time allocated to procedural and administrative issues is relatively high at 20 per cent.

12. The *Gotovina et al.* case began on 11 March 2008 and the Prosecution case is now due to finish in January or February 2009. This high profile case involves senior Croatian accused. The charges relate to crimes against humanity and war crimes committed during Operation Storm, a military operation launched by Croatia from August to November 1995. The accused are Ante Gotovina, a General in the Croatian Army, Ivan Čermak, former Commander of the Knin Garrison and Mladen Markač, former Commander of the Special Police of the Croatian Ministry of the Interior and Assistant Minister of Interior. Proceedings under Rule 54 *bis* in relation to documents requested by the Office of the Prosecutor have been before the Trial Chamber since June 2008.

13. The case against Vojislav Šešelj, the President of the Serbian Radical Party, commenced in December 2007 and as of 30 November 2008, 110 days of court hearings will have been concluded. This breaks down to an average of slightly more than nine days of trial being held per month. The Prosecution was allocated 120 hours to present its case-in-chief and as of early November 2008, the Prosecution had used 77 per cent of its total time. According to the official figures maintained by the Registry, as of 7 November 2008, the trial had required 310 hours of total court time, with the Prosecution using approximately 110.5 hours (35.6 per cent of the total); the Accused 98 hours (31.6 per cent of the total); and the Trial Chamber 101.5 hours (32.7 per cent of the total). The Prosecution is making every effort to present the case as expeditiously as possible. However, problems relating to witness intimidation and the accused representing himself continue to affect the progress of the trial. A Prosecution motion to assign Defence Counsel to the Accused on the grounds of obstruction of the proceedings by the accused and witness interference is pending before the Trial Chamber since July 2008.

14. The trial against Milan Lukić and Sredoje Lukić started in July 2008. Milan Lukić was the leader of a group of local Bosnian Serb paramilitaries in South-Eastern Bosnia and Herzegovina which worked with the local police and military units to persecute the local Muslim population. His co-accused Sredoje Lukić, was a police officer and a member of the paramilitary group. Both have been charged with crimes against humanity of persecutions on political, racial and religious grounds, murder, inhumane acts, extermination, murder and cruel treatment. Although the Prosecution originally sought to transfer this case to the region in 2007 under Rule 11 *bis*, the Appeals Chamber ruled that it should be heard before the Tribunal since Milan Lukić was perhaps the most significant paramilitary leader to be tried by the Tribunal at that date. In April 2008, the Prosecution reduced its case by a third. The Prosecution used less time than it estimated in presenting its case, and closed on 11 November 2008. The Prosecution's use of written statements to present witness evidence has speeded up the case considerably. The length of the Prosecution case has also been reduced because the Prosecution asked for judicial notice to be taken of adjudicated facts and documentary evidence from other proceedings. The Chamber's thorough and detailed analysis of this request allowed the Prosecution to reduce the amount of evidence presented. As a result of these measures, the Chamber had reduced the time that the Court sits from five days a week, to four days a week, to allow the Defence to cope with the volume and speed at which prosecution evidence was being presented.

15. Another case which has begun since the Prosecutor's last report to the Security Council in May, is that against Momčilo Perišić. As the former Chief of the General Staff of the VJ, Perišić was the most senior officer in the army of the Federal Republic of Yugoslavia. The Prosecution successfully sought judicial notice of documents and adjudicated facts relating to crimes committed in Srebrenica and crimes committed during the military campaign against Sarajevo. Again, the Prosecution has presented the majority of its crime base evidence by written statements. As a result, the Prosecution has been able to reduce the number of witnesses it intends to call and has been able to cut down the number of hours allocated for its case by two thirds. Although the trial is still in its early stages, it is estimated that the prosecution case will last about a year, and that the case will extend into 2010.

16. In the case against Jovica Stanišić and Franko Simatović, two of the highest ranking members of the State Security Service in Belgrade under Slobodan Milošević, the ill-health of the first accused continues to delay the case. Although Jovica Stanišić was found fit to stand trial, and special arrangements were made to accommodate his condition, the trial was recently stopped when he claimed to be unable to follow the proceedings by video link from the detention unit. On appeal the trial was adjourned for several months. The Office of the Prosecutor has now requested that the Court should re-assess the situation regarding Jovica Stanišić's health with a view to recommencing the trial. The Prosecution has made it clear that it is open to exploring ways in which practical arrangements might be made to proceed with the trial while making allowances for Stanišić's alleged poor health and at the same time safeguarding his rights as an accused.

17. Following the arrest of Stojan Župljanin in June 2008, the Office of the Prosecutor successfully requested that his case be joined with that of Mićo Stanišić in order to avoid separate trials on the charges, which relate to atrocities which took place in the Autonomous Region of Krajina in Bosnia and Herzegovina. Although

the commencement of the trial is likely to be delayed to allow Župljanin sufficient time to prepare his defence, the joinder of these accused into a single trial will represent significant overall saving in court time.

18. The only other trials which have not yet begun are those of *Đorđević*, *Tolimir* and *Karadžić*. Vlastimir Đorđević was Assistant Minister of the Serbian Ministry of Internal Affairs and Chief of the Public Security Department of the Ministry. He was also the superior of one of the accused in the *Milutinović et al.* case. It is expected that this case may be the next to go to trial.

19. Zdravko Tolimir was the Assistant Commander for Intelligence and Security of the VRS Main Staff. He was transferred to the Tribunal too late to be tried with his former co-accused in the *Popović et al.* case. A separate case is therefore currently being made ready for trial. Given the fact that this will be the fourth Srebrenica trial before the Tribunal, there should be scope to shorten the proceedings significantly by using evidence already led in other cases.

20. Pretrial proceedings are now under way in the case against Radovan Karadžić, formerly the highest civilian and military authority in the Republika Srpska. On 22 September 2008, the Office of the Prosecutor submitted a motion to amend the indictment. In the proposed amended indictment, the Prosecution not only updated and clarified its legal and factual allegations relating to the accused's individual responsibility, but also narrowed the scope of the criminal conduct underlying the charges. If accepted, these amendments will lead to a more efficient and expeditious presentation of the Prosecution's case, which may also benefit from the fact that most of the crimes charged have already been the subject of prosecutions before the Tribunal. Here again there is likely to be significant scope for limiting the amount of live evidence at the trial and for taking judicial notice of adjudicated facts. The case, however, is currently in its early stages and until a number of important issues are resolved, it is too soon to predict accurately the duration of the trial.

21. If Ratko Mladić, currently at large, is arrested soon, the Office of the Prosecutor intends to request that his trial be joined with that of Radovan Karadžić. If the other outstanding fugitive, Goran Hadžić is arrested, his case will proceed as a stand-alone trial, there being no remaining opportunities for joinder with other cases.

Contempt cases

22. In June and September the Office of the Prosecutor presented evidence in two short trials in which charges were brought against three individuals for contempt of the Tribunal. The first, against Baton Haxhiu resulted in the conviction of a Kosovo journalist for publishing information about a protected witness in the case against Ramush Haradinaj. The second, against Astrit Haraqija and Bajrush Morina, also related to the case against Ramush Haradinaj. It concerned charges of interfering with another protected witness, and is awaiting judgement. In addition the Prosecution brought a number of other instances of apparent contempt to the attention of Trial Chambers.

Appeals

23. Prosecution work on appeals has been constant. The Appeals Chamber rendered a judgement in the *Orić, Strugar and Martić* cases. The Prosecution filed appeals in two new cases: *Boškoski and Tarčulovski* and *Delić*.

24. The Prosecution makes every effort to file in advance of the Chamber's deadlines to promote earlier hearings. Filings were completed in the *Mrkšić and Šljivančanin, Haradinaj et al.* and *D. Milošević* cases and the Prosecution is prepared to proceed as soon as the Appeals Chamber is ready to schedule an oral hearing. The Prosecution presented its final arguments in the *Krajišnik* case and now awaits judgement from the Appeals Chamber.

25. Over the next six months, appeals practice will continue to be very active. In early 2009, the trial judgement is expected in the first multiple-accused case, *Milutinović et al.* The trial judgement in *Lukić and Lukić* is expected in the first quarter of 2009. The Prosecution projects a marked increase in workload for the Appeals Division beginning in the second half of 2009 with the trial judgement of the second multi-accused case, *Popović et al.* and two other senior leadership cases, *Gotovina et al.* and *Šešelj*. The Appeals Division will then have a continuing inventory of more than 20 appeals cases. The Prosecution has established a staffing plan which allocates resources to meet the projected increased workload.

International cooperation

26. In order to fulfil its mandate, during the reporting period the Office of the Prosecutor continued to seek the full cooperation of States of the former Yugoslavia and other States, as required under Article 29 of the Statute of the Tribunal.

Cooperation from States of the former Yugoslavia

27. Cooperation from States of the former Yugoslavia remains vital in several areas: access to archives and the provision of documents; access to and protection of witnesses; and the search for, arrest and transfer of the remaining two fugitives, including taking measures against those who continue to support them.

28. To seek their cooperation in these areas, the Prosecutor met political and judicial authorities in Serbia, Croatia and Bosnia and Herzegovina during the reporting period. To achieve results in the time frame of the ongoing trials it is crucial to maintain a dialogue with key officials at both the State and working levels and further develop the existing partnership with national prosecution offices.

Cooperation of Serbia

29. During the reporting period, Serbia has made substantial progress in its cooperation with the Office of the Prosecutor.

30. The assistance provided by Serbia during the reporting period in terms of access to archives and the provision of documents has generally improved. Serbia's National Council for Cooperation with the Tribunal has played a key role in facilitating the provision of documents. As a result, Serbia has provided timely responses to the majority of the Office of the Prosecutor's requests for assistance. Some progress has also been achieved in obtaining access to State security agency archives. The Office of the Prosecutor is currently working closely with the

authorities to ensure full access to the relevant documents. However, a limited number of issues remain to be addressed. In particular, for over a year, the Office of the Prosecutor has sought access to certain key military documents for its case in the trial against Momčilo Perišić. In July 2008, the Court ordered Serbia, under Rule 54 *bis* to produce these documents. After protracted proceedings, Serbia submitted a response that the Prosecutor considers to be inadequate and incomplete. The Prosecutor hopes that these documents will be made available soon. Serbia's assistance in providing documents and archival material will remain of paramount importance during the upcoming senior leadership trials.

31. Although the Office of the Prosecutor, the Registry's Victims and Witnesses Section and the local authorities in Serbia are working together on the issue, witness interference remains of serious concern. The Office of the Prosecutor acknowledges that the relevant authorities have adequately responded to its requests in this regard. Still, witnesses in some cases have been threatened and have failed to appear to testify on a voluntary basis. Because of the serious questions about the safety of witnesses in Serbia, the Office of the Prosecutor, together with the Registry's Victims and Witnesses Section, will continue to pursue closer cooperation with the Serbian authorities to resolve these questions. The authorities are encouraged to contribute to creating an atmosphere that would facilitate the appearance of witnesses in current and future trials. Experience has shown that Investigative Judges in Serbia can play an effective role in securing the testimony and attendance of reluctant witnesses.

32. The most critical area of cooperation remains the apprehension of fugitives. The Prosecutor recognizes the significant contribution of the National Security Council and the Action Team in charge of tracking fugitives. On 11 June 2008, the authorities of Serbia arrested Stojan Župljanin. He was transferred to The Hague on 21 June 2008. On 21 July 2008, the Office of the Prosecutor was informed of the arrest of Radovan Karadžić. He was transferred to The Hague on 30 July 2008. These two latest arrests represent important milestones in Serbia's cooperation with the Office of the Prosecutor. The arrests were carried out by the authorities of Serbia and were the result of improved effective leadership and coordination between political and judicial authorities, and security services.

33. Two fugitives, Ratko Mladić and Goran Hadžić, remain at large. The agencies in charge of tracking fugitives have increased their efforts and are currently conducting more active and widespread search operations against the fugitives and their support networks. Planning and coordination between different security services, which was problematic in the past, have improved. However, the work of the present authorities is complicated by the need to overcome shortcomings of the previous management of the civilian security services, in particular, their failure to analyse and act upon information obtained.

34. During the last visit of the Prosecutor to Serbia on 17 and 18 November 2008, the authorities presented operational plans to locate and arrest the fugitives. Should these plans be successfully implemented, the analytical capacity reinforced, and necessary political support maintained, additional results could be achieved. Therefore, the Office of the Prosecutor will continue to work closely with the authorities in the hope of achieving more positive results in the coming months.

Cooperation of Bosnia and Herzegovina

35. The authorities of Bosnia and Herzegovina continued to grant access to Government archives and to provide documents requested. Moreover, the authorities continued to provide adequate responses to requests for assistance and facilitate the appearance of witnesses before the Tribunal.

36. The Office of the Prosecutor encourages law enforcement and judicial authorities of Bosnia and Herzegovina to take necessary measures against those engaged in helping the remaining fugitives evade justice or otherwise obstruct the effective implementation of the Tribunal's mandate.

37. The Office of the Prosecutor hopes that Bosnia and Herzegovina's current political and structural difficulties will not negatively impact on the cooperation it is required to provide.

Cooperation of Croatia

38. During the reporting period, the majority of requests for assistance addressed to Croatia have been answered in a timely manner. However, the Office of the Prosecutor requested Croatia to grant access to certain key Government archives and produce documents in the *Gotovina et al.* case. After failed attempts during the past eighteen months to obtain these documents, at the request of the Office of the Prosecutor, the Trial Chamber ordered Croatia to provide a detailed report of investigative steps undertaken to locate the requested documentation and the results obtained. In response to the Chamber's order, Croatia provided a report and supporting documents, only some of which are relevant. Key documents remain unaccounted for. The Office of the Prosecutor considers that the administrative investigation and reported steps taken to locate these documents are not satisfactory. The matter remains before the court. As the Prosecution case is nearing its completion, the Office of the Prosecutor urges Croatia to take all additional steps to meet its obligations fully.

Cooperation from other States and organizations

39. The Office of the Prosecutor continues to rely on States and international organizations to provide documents and information required for trials and appeals. It is important that States and international organizations continue to insist on the arrest of the remaining fugitives.

40. As previously reported, the Office of the Prosecutor has encountered serious problems related to the protection of witnesses. The Office of the Prosecutor relies heavily on the international community's assistance in ensuring the safety of witnesses and, if necessary, their relocation.

41. The Office of the Prosecutor appreciates the support provided by international and regional organizations such as the European Union, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia. Their support will continue to be crucial as the work of the Tribunal progresses.

The transfer of cases and investigative material to national authorities and the transition to domestic prosecution

42. The transfer of investigative case files and material to competent national jurisdictions is a key component of the Tribunal's completion strategy. Moreover, the Office of the Prosecutor continues to support national courts and prosecution services, by facilitating access to information and evidence available in The Hague.

Rule 11 bis Cases

43. As reported previously, six cases have been transferred to Bosnia and Herzegovina, one case has been transferred to Croatia and one case has been transferred to Serbia, pursuant to Rule 11 bis. At present, Rule 11 bis transfer procedures have been fully used and no further cases appear suitable for transfer.

44. Prosecutions before national courts are proceeding, and in a number of transferred cases convictions have been obtained and sentences imposed. Where necessary, the Office of the Prosecutor continues to assist and work closely with national authorities.

45. On behalf of the Office of the Prosecutor, the OSCE continues to monitor trial and appeal proceedings in cases transferred to Croatia and Bosnia and Herzegovina. The OSCE provides regular reports on ongoing proceedings in these cases to the Office of the Prosecutor, which serve as a basis for the Prosecutor's progress reports to the Tribunal's Judges.

Transfer of investigative material to national authorities

46. During the reporting period, the Office of the Prosecutor continued to work closely with State prosecutors, to whom investigative material was sent. The Office of the Prosecutor has also maintained positive working relationships with the Offices of the State Prosecutor in Zagreb and Sarajevo and the War Crimes Prosecutor in Belgrade.

47. The Transition Team in the Office of the Prosecutor has been strengthened and continues the compilation and preparation of investigative material for transfer to States in the region.

48. In relation to Bosnia and Herzegovina, by the end of the current reporting period, the Office of the Prosecutor had handed over investigative material regarding a total of 16 suspects covering seven municipalities. The Office of the Prosecutor is finalizing the transfer of investigative material in relation to an additional 20 suspects for crimes committed in seven cases. All material should be transmitted to Bosnia and Herzegovina in 2009. Extensive follow-up work will continue to be provided by the Office of the Prosecutor once the State Prosecutor's Office in Bosnia and Herzegovina has had an opportunity to review and assess the transferred material.

49. No new case files have been sent to Croatia or Serbia during the reporting period.

50. If the International Tribunal is to achieve the positive completion of its mandate, it is important that transition work and the transfer of cases continues. The Prosecutor therefore supports international and national efforts to strengthen the Special Department for War Crimes of the State Court of Bosnia and Herzegovina.

The failure to do so could have a serious negative impact on ongoing and upcoming trials, including those case files transferred by the Tribunal. Efforts to strengthen the fragile judicial system in Bosnia and Herzegovina would also be jeopardized.

51. As part of the transfer of cases, the Prosecution will transmit to the State Court in Bosnia and Herzegovina charges not proceeded with or removed from the Tribunal's indictments. These remain outstanding and merit prosecution in their own right.

Requests for assistance from national judicial authorities

52. The Office of the Prosecutor responded to numerous requests for assistance submitted by national judicial authorities in the former Yugoslavia, thereby providing support to ongoing investigations and pending cases. Some of those investigations are closely linked with cases against suspects tried before the International Tribunal. Since the submission of the last report, the Office of the Prosecutor has responded to a total of 57 requests for assistance from authorities in the former Yugoslavia investigating and prosecuting war crimes (46 from Bosnia and Herzegovina, including a number of requests from the Criminal Defence Section at the State Court of Bosnia and Herzegovina, six from Croatia, four from Serbia and one from Montenegro).

53. It should be noted that there has been an increase in requests originating from other States investigating war crimes committed in the former Yugoslavia. The Office of the Prosecutor responded to six requests for assistance from other States during the same time period. The requests concerned the provision of documents and availability of staff of the International Tribunal to testify in domestic trials.

54. The Office of the Prosecutor also handled applications from States of the former Yugoslavia for variations of protective measures for witnesses ordered by the Tribunal under Rule 75(H). It is to be expected that the number of such applications will increase in the future.

55. Moreover, delegations from prosecutor's offices, mainly from the countries of the former Yugoslavia, continue to visit the Office of the Prosecutor to address specific requests for assistance and attend comprehensive training sessions.

Capacity-building efforts and inter-State regional cooperation

56. The successful transition to the domestic prosecution of serious violations of international humanitarian law depends upon States having criminal justice systems with the capacity to deal with cases which the International Tribunal cannot prosecute. The Office of the Prosecutor, sometimes with Chambers and Registry, therefore continues to build the capacity of its national counterparts to deal with these specialized and complex prosecutions. The focus of the Office of the Prosecutor remains on the effective partnership with prosecutors and courts in the region.

57. During the reporting period the Office of the Prosecutor has been exploring funding possibilities for establishing a programme under which visiting professionals from the former Yugoslavia would be integrated into the Office of the Prosecutor in The Hague for a period of time. These professionals would have access to documents and would have the opportunity to consult regularly with trial teams. Such arrangements would complement the already established programme

allowing interns from the region to work in the Office of the Prosecutor for periods of three to six months.

58. Efforts to ensure improved regional cooperation and sharing of information between offices in the region continue. The Office of the Prosecutor continuously supports and encourages these efforts. Increased coordination is required in order to develop tools and mechanisms to avoid parallel proceedings. The Office of the Prosecutor remains strongly engaged to support such initiatives at the regional level.

59. Moreover, the Office of the Prosecutor participates in the meetings of the European Network of Contact Points on Genocide, Crimes against Humanity and War Crimes.

60. As previously reported, obstacles to inter-State judicial cooperation are the lack of extradition agreements between States of the former Yugoslavia and legal barriers which prevent the transfer of war crimes proceedings between these States. In order to address the resulting impunity gap, these issues should urgently be addressed by all authorities concerned.

Management of resources

61. The timely and efficient completion of trials and appeals remains the top priority of the Office of the Prosecutor. The recent arrests of Župljanin and Karadžić make it clear that the Office of the Prosecutor will need to continue to function at full capacity throughout 2009. A reduction in staffing levels and non-post items can be expected thereafter and management is already planning for the eventual downsizing of the office.

62. As the completion of the Tribunal's work draws near, the retention of highly qualified staff members in the Office of the Prosecutor remains critical to the successful completion of trials and appeals. Staff are beginning to leave the institution because they realize that they must now seek longer term career opportunities. The number doing so because of the completion strategy is bound to increase. The loss of institutional specialized knowledge and the difficulty in hiring experienced staff to complete remaining trials may impact on the Prosecutor's ability to meet his commitments in completing the Tribunal's work. It becomes increasingly difficult to recruit replacement staff, as the time available for them to develop the necessary knowledge and skills is reduced. Therefore, with the President and the Registrar, the Prosecutor supports initiatives to find ways to retain qualified staff until the completion of the Tribunal's mandate.

63. In close consultation with the President and Registrar, the Prosecutor remains engaged in discussion on the establishment of an international residual mechanism and the future location of the Tribunal's archives. Consultations in this regard continue with the Security Council.

Conclusion

64. During the last six months, the Office of the Prosecutor has maintained its focus on the completion of its mandate. Considerable progress has been made in trials: by advancing the multi-leadership cases; by narrowing the scope of prosecutions; and by presenting evidence more efficiently. State cooperation has improved, but there do remain a number of outstanding issues, notably concerning the production of documents and the arrest of fugitives. These external factors

continue to have an important bearing on the dates by which the Tribunal will be able to complete its programme of trials and appeals.

65. Interaction with national prosecutors in the former Yugoslavia continues to develop, as do efforts to transfer know-how and help build the capacity of national courts.

66. Although the Prosecutor's principal obligation is to maintain the quality and progress of prosecution cases before the Tribunal, the Office of the Prosecutor is managing its resources with a view to the eventual downsizing of its staff and the design of a future residual international mechanism.

67. In all of these endeavours, the Prosecutor relies upon, and hopes to retain, the continuing support of the international community and especially of the Security Council of the United Nations.

Enclosure I

1. Persons Convicted or Acquitted after Trial between 16 May 2008 – 11 November 2008 (1)				
Case	Name	Former Title	Initial Appearance	Judgement
1.	Rasim Delić	Commander of the Main Staff of the Army of BiH	03-Mar-05	15 September 2008 Sentenced to 3 years of imprisonment
2.	Ljube Boškoski Johan Tarčulovski	Minister of Interior of FYROM Presidential Security Officer	01-Apr-05 21-Mar-05	10 July 2008 Acquitted Sentenced to 12 years of imprisonment

2. Persons Pleading Guilty between 16 May 2008 – 11 November 2008 (0)				
Case	Name	Former Title	Initial Appearance	Judgement
No Guilty Pleas				

3. Persons Convicted of Contempt between 16 May 2008 – 11 November 2008 (1)			
Case	Name	Initial Appearance	Judgement
1.	Baton Haxhiu	21 May 2008	24 July 2008 Sentenced to a fine of 7.000 Euros

Legend

ABiH: Army of Bosnia and Herzegovina

FYROM: Former Yugoslav Republic of Macedonia

Enclosure II

1. Trials in Progress 16 May 2008 – 11 November 2008 (26 accused- 7 cases)				
Case	Name	Former Title	Initial Appearance	Comments
1.	Jadranko Prlić	President, "Herceg-Bosna"	6-Apr-04	"Herceg-Bosna" Trial commenced 26 April 2006
	Bruno Stojić	Head Department of Defence, "Herceg-Bosna"		
	Slobodan Praljak	Assistant Minister of Defence, "Herceg-Bosna"		
	Milivoj Petković	Commander, HVO		
	Valentin Ćorić	Chief of Military Police Administration, HVO		
	Berislav Pušić	Military Police Commanding Officer, HVO		
2.	Dragoljub Ojdanić	Chief of Staff, VJ	26-Apr-02	"Kosovo" Trial Commenced 10 July 2006- Closing arguments were presented on 27 August and judgement writing is currently in progress.
	Nikola Šainović	Deputy Prime Minister, FRY	3-May-02	
	Milan Milutinović	President Republic of Serbia	27-Jan-03	
	Vladimir Lazarević	Commander, Pristina Corps, VJ, Kosovo	7-Feb-05	
	Sreten Lukić	Head Staff, Serbian Ministry of Internal Affairs, VJ, Kosovo	6-Apr-05	
	Nebojša Pavković	General, Commander 3 rd VJ Army, Kosovo	25-Apr-05	
3.	Ljubiša Beara	Colonel, Chief of Security, VRS	12-Oct-04	"Srebrenica" Trial Commenced 14 July 2006
	Drago Nikolić	Chief of Security, Drina Corps, VRS	23-Mar-05	
	Ljubomir Borovčanin	Deputy Commander, Ministry of Interior Special Police Brigade, RS	7-Apr-05	
	Vujadin Popović	Lt. Colonel, Assistant Commander, Drina Corps, VRS	18-Apr-05	
	Vinko Pandurević	Commander, Zvornik Brigade, VRS	31-Mar-05	
	Milan Gvero	Assistant Commander, VRS	2-Mar-05	
	Radivoje Miletić	Chief of Operations, Deputy Chief of Staff, VRS	2-Mar-05	
4.	Vojislav Šešelj	President, SRS	26-Feb-03	Trial Commenced 7 November 2007

5.	Ante Gotovina	Commander, Split Military District, HV	12-Dec-05	Trial Commenced 11 March 2008
	Ivan Čermak	Assistant Minister of Defence, Commander of Military Police, Croatia	12-Mar-04	
	Mladen Markač	Special Police Commander, Croatia	12-Mar-04	
6.	Momčilo Perišić	Chief of General Staff, VJ	9-Mar-05	Trial Commenced on 2 October 2008
7.	Sredoje Lukić	Member, Serb paramilitary unit, BiH	20-Sept-05	Trial Commenced on 9 July 2008.
	Milan Lukić		24-Feb-06	

Legend:

FRY: *Federal Republic of Yugoslavia*
 Herceg-Bosna: *Croatian Republic of Herceg-Bosna*
 HVO: *Croatian Defence Council*
 RS: *Republika Srpska*
 VRS: *Bosnian Serb Army*
 VJ: *Armed Forces of the Federal Republic of Yugoslavia*
 FYROM: *Former Yugoslav Republic of Macedonia*
 BiH: *Bosnia and Herzegovina*
 SRS: *Serbian Radical Party*
 HV: *Croatian Army*

Enclosure III

1. Arrivals at the Tribunal between 16 May 2008 – 11 November 2008 (2)					
	Name	Former Title	Place of Crime	Arrival Date	Initial Appearance
1.	Radovan Karadžić	President, RS	BiH	30-Jul-08	31-Jul-08
2.	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	Krajina, Croatia	21-Jun-08	21-Jun-08
Total Arrivals: 2					

2. Remaining Fugitives between 16 May 2008 – 11 November 2008 (2)				
	Name	Former Title	Place of Crime	Date of Indictment
1.	Ratko Mladić	Commander, Main Staff, VRS	BiH	25-Jul-95
2.	Goran Hadžić	President, "SAO SBWS"	Croatia	28-May-04
Total Remaining Indictees: 2				

Legend:*RS: Republika Srpska**VRS: Bosnian Serb Army**SAO SBWS: Serbian Autonomous District, Slavonia Baranja and Western Srem*

Enclosure IV

1. Accused Awaiting Trial for the Period 16 May 2008 – 11 November 2008 (5 accused, 4 cases)			
Case	Name	Former Title	Initial Appearance
1.	Zdravko Tolimir	Assistant Commander for Intelligence and Security of the Bosnian Serb Army	04-Jun-07
2.	Vlastimir Đorđević	Assistant Minister of the Serbian Ministry of Internal Affairs (MUP), Chief of the Public Security Department of the MUP	19-Jun-07
3.	Miće Stanišić	Minister, Internal Affairs, RS	17-Mar-05
	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	21-Jun-08
4.	Radovan Karadžić	President, RS	31-Jul-08

Legend:

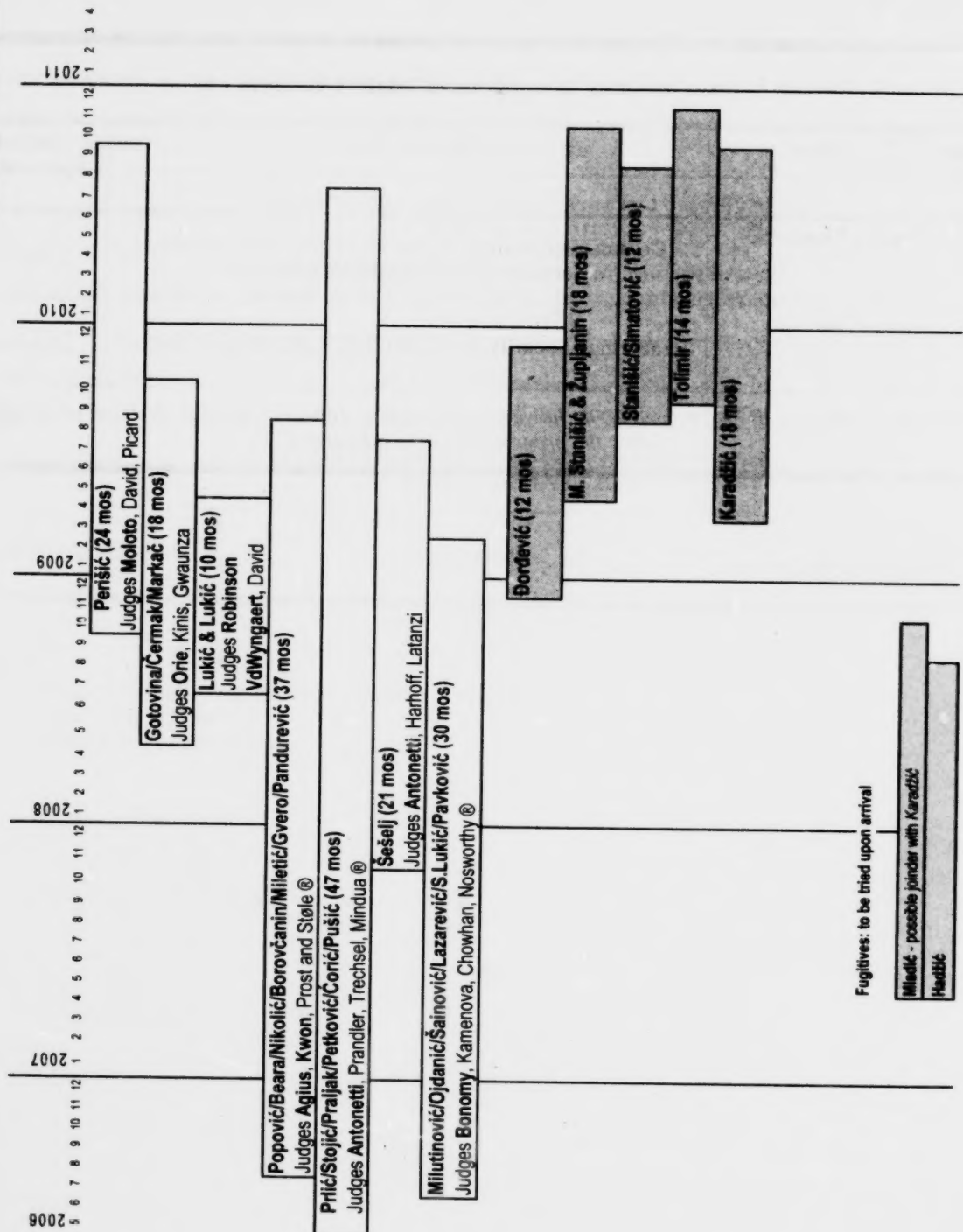
VJ: *Armed Forces of the Federal Republic of Yugoslavia*
 RS: *Republika Srpska*
 BiH: *Bosnia and Herzegovina*

Enclosure V

1. Accused Awaiting Resumption of Trial: (2 accused, 1 case)			
Case	Name	Former Title	Initial Appearance
1.	Franko Simatović	Commander, Special Operations Unit, State Security Services ("DB"), Republic of Serbia	2-Jun-03
	Jovica Stanišić	Head, State Security Services ("DB"), Republic of Serbia	12-Jun-03
<i>Trial had commenced on 29 April 2008, however, pursuant to Appeals Chamber decision of 16 May 2008, the proceedings were adjourned.</i>			

Legend:

DB: State Security Services



I should be grateful if you could have the present letter distributed as a document of the Security Council.

(Signed) Gabriela **Shalev**
Ambassador
Permanent Representative



**General Assembly
Security Council**

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General Assembly
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Agenda item 21
Question of Cyprus

Security Council
Sixty-third year

**Letter dated 21 November 2008 from the Permanent
Representative of Turkey to the United Nations addressed to
the Secretary-General**

I have the honour to transmit herewith a letter dated 20 November 2008, addressed to you by Mr. Kemal Gökeri, Representative of the Turkish Republic of Northern Cyprus (see annex).

I will be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 21, and of the Security Council.

(Signed) Baki İlkin
Ambassador
Permanent Representative



Annex to the letter dated 21 November 2008 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letter dated 7 November 2008 addressed to you by the Greek Cypriot representative and circulated as a document of the General Assembly and of the Security Council (A/63/543-S/2008/704 and Corr.1), which yet again contains well-known allegations of violations of "international air traffic regulations and the national airspace of the Republic of Cyprus" and to bring to your kind attention the following:

As stated in our previous communications addressed to you, habitually repeated allegations by the Greek Cypriot side of so-called "airspace violations" are totally unfounded and are rejected in toto by our authorities. The present allegations do not merit a detailed reply as they are of a similar nature. However, I wish to emphasize, once again, that flights within the sovereign airspace and flight information region of the Turkish Republic of Northern Cyprus take place with the full knowledge and consent of the appropriate authorities of the State. The Greek Cypriot administration in South Cyprus has no jurisdiction or right of say over flights within the national airspace of the Turkish Republic of Northern Cyprus. Furthermore, it should be emphasized that allegations of so-called violations of air traffic regulations are invalid, as the civil aviation authority of the Turkish Republic of Northern Cyprus is the only competent authority to provide air traffic and aeronautical information services.

The Greek Cypriot administration should be reminded, once again, that its counterpart is, and has always been, the Turkish Cypriot side, not Turkey. I also deem it imperative to point out, once again, that the attitude demonstrated by the Greek Cypriot representatives in their constant repetition of false claims is nothing more than rhetoric, which unfortunately wastes the precious time and energy of the international community.

Furthermore, at a time when the full-fledged negotiations between the two leaders are under way, such claims and defamation tactics are counterproductive and will serve nothing other than poisoning the positive atmosphere on the solution front.

Lastly, I would like to stress that the Turkish Cypriot side is ready and doing its best for achieving a settlement in the form of a new partnership which will be in line with the established United Nations parameters and body of work. Bizonality, political equality of the two peoples, the equal status of the two constituent states and the continuation of Turkey's effective guarantee will constitute the parameters for a solution to the Cyprus problem. Removal of the existing isolations on Turkish Cypriots and equal treatment of the two sides by the international community will surely contribute positively to the efforts towards reaching a comprehensive settlement in Cyprus.

I should be grateful if the text of the present letter could be circulated as a document of the General Assembly, under agenda item 21 and of the Security Council.

(Signed) M. Kemal Gökçeri
Representative
Turkish Republic of Northern Cyprus

Annex**Letter dated 6 November 2008 from the High Representative for the Common Foreign and Security Policy of the European Union and Secretary-General of the Council of the European Union addressed to the Secretary-General of the United Nations**

In accordance with the statement by the President of the Security Council of 12 December 2002 (S/PRST/2002/33), I attach a report on the activities of the European Union Police Mission in Bosnia and Herzegovina (EUPM). The reporting period is aligned with that covered by the six-monthly review prepared by the Mission, which runs from April to September 2008.

On 19 November 2007, the Council of the European Union adopted the Joint Action 2007/749/CFSP, providing for a second extension of the mandate of EUPM until 31 December 2009, following the invitation of the Bosnia and Herzegovina authorities to continue its activities.

Although considerable achievements have been made since the initial launch of EUPM on 1 January 2003, effective results in the fight against organized crime and in the establishment of key State law enforcement agencies such as the Border Police or the State Investigation and Protection Agency are a long-term endeavour. The recent arrests of prominent figures allegedly involved in organized crime activities represent, however, a significant breakthrough.

The adoption by the Parliamentary Assembly of Bosnia and Herzegovina of two police reform laws on 16 April 2008 paved the way for the signature of the Stabilization and Association Agreement with the European Union (EU) on 16 June 2008. An interim agreement with the European Community, aimed at progressively establishing a common market, entered into force on 1 July 2008. Furthermore, the European Commission released a road map for visa liberalization.

These are important steps in Bosnia and Herzegovina's process of European integration, but more remains to be done. A key issue will be the timely implementation of the two police reform laws. EUPM is actively advising and monitoring the implementation process, and is acting as a facilitator to try to overcome some of the technical difficulties and different views among local stakeholders about the scope of the reform.

Under its current mandate, EUPM will continue to focus on a concrete operational approach, as well as reaching out to the Judiciary and, in particular, to prosecutors. Improved cooperation between police forces and the prosecutors offices is a critical factor in the fight against organized crime and other forms of serious crime. EUPM will also assist the domestic authorities in harmonizing the police legislation and in implementing the integrated border management strategy.

I propose to provide the Security Council with a written update on the progress of EUPM. I would be grateful if you would transmit the enclosed report to the President of the Security Council.

(Signed) Javier Solana

Enclosure**Report of the High Representative for the Common Foreign and Security Policy of the European Union and Secretary-General of the Council of the European Union on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from April to September 2008****Introduction**

1. The European Union Police Mission (EUPM) has been the first operation undertaken under the European Security and Defence Policy. It started on 1 January 2003 with an initial three-year mandate. In November 2005, the Council decided to extend EUPM until 31 December 2007. In view of the remaining challenges and the recommendation by the Secretary-General/High Representative, with Joint Action 2007/749/CFSP of 19 November 2007, the Council decided on another extension of EUPM until 31 December 2009 with a refocused mandate. Brigadier General Vincenzo Coppola (Italy) was Head of Mission during the reporting period. His tour of duty will come to an end on 31 October 2008.

2. EUPM aims, through monitoring, mentoring and inspecting, to establish in Bosnia and Herzegovina a sustainable, professional and multi-ethnic police service operating in accordance with European and international standards. It does so through an approach based on three strategic pillars: support to the fight against organized crime, improvement of accountability of local police and support to the implementation of police reform. The Mission benefits from the local political guidance and coordination of the European Union Special Representative. EUPM contributes to the stabilization and association process with the goal to set Bosnia and Herzegovina irreversibly on track for EU membership by strengthening the rule of law and developing a police service that is effective and free from undue political interference.

Staffing and methodology

3. At the end of September 2008, EUPM had 418 staff (167 international police officers, 30 international civilian experts and 221 national staff). All 27 EU Member States contribute to EUPM, as do 6 non-EU countries. The Mission takes due account of Security Council resolution 1325 (2000) on women, peace and security in all its activities, as well as the EU operational paper on practical measures for taking work forward on Security Council resolution 1325 (2000) in the context of the European Security and Defence Policy. Together with the United Nations Development Fund for Women, EUFOR and a local NGO, the Mission will promote gender questions in law enforcement agencies with a project starting in October 2008 and running through 2009.

General situation

4. Bosnia and Herzegovina made progress on its European integration path. Two police reform laws were adopted by the Parliamentary Assembly of Bosnia and

Herzegovina on 16 April 2008. Their adoption opened the way for the signature of the Stabilization and Association Agreement on 16 June. An interim agreement with the European Community, gradually establishing a common market, entered into force on 1 July. In addition, the European Commission released a road map for visa liberalization. The Peace Implementation Council Steering Board welcomed on 25 June positive developments and the progress made by the Bosnia and Herzegovina authorities to deliver on the two conditions and five objectives of the Office of the High Representative-European Union Special Representative transition. The Russian Federation was unable to join in the final Communiqué.

5. These developments contributed to calming the political situation. However, tensions remained and resurfaced by the end of summer. Several concurrent and controversial processes dominate the political landscape: the run-up to the municipal elections, the transition from the Office of the High Representative to a reinforced EU engagement, the debate about constitutional reform and socio-economic consequences of an economic slowdown, and inflationary pressure in combination with the gradual opening of the Bosnia and Herzegovina market to EU competitors. Municipal elections took place on 5 October 2008.

6. Police services in Bosnia and Herzegovina improved their capacity to uphold public peace and order, including in complex situations such as the securing of the commemoration ceremonies in Srebrenica and eastern Bosnia and the aftermath of the arrest of Radovan Karadzic.

7. Mission progress in support of the fight against organized crime continued. Several high-level investigations were opened by the State Investigation and Protection Agency (SIPA) and entity police. The investigation of identity fraud cases in the Citizen Identification Protection System led to the arrest of Republika Srpska police officials in September and could lead to further arrests and indictments during the coming period. On 22 September, the main trial against the leaders of a key organized crime group in Sarajevo was opened.

8. The European Union Coordination Board met regularly and, as of June, with the presence of Bosnia and Herzegovina police officials. Bosnia and Herzegovina police services, supported by EUPM, launched a public awareness campaign on major and organized crime on 19 September.

9. The Ministry of Security, advised by EUPM and European Union Special Representative/Office of the High Representative, started the implementation of the two police reform laws. Implementation is one month behind schedule owing to lacking decisions by the Council of Ministers. The harmonization of police legislation and regulations continued, with the Ministry of Security drafting amendments to bring existing legislation in line with the police reform laws. The police reform laws require this exercise to be completed by November 2008.

10. EUPM advised the Ministry of Security and law enforcement agencies on the implementation of the integrated border management strategy and on the introduction of measures required for visa facilitation and liberalization. Inspections continued and confirmed previous observations that internal control mechanisms are developing to a satisfactory level. Efforts need, however, to be continued.

Achievements during the reporting period

Support to police restructuring and police reform processes

11. EUPM progress in support of police restructuring and the police reform processes has been consistent. The police restructuring efforts included the implementation of the Law on the Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure of Bosnia and Herzegovina and the Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina (police reform laws). While EUPM can expect the implementation of those laws to be partially fulfilled by the end of 2008, the full implementation of this first phase, which foresees the completion of staffing and full functioning of the new institutions, will most likely take more time.

12. Having in mind that the legislation regulating the institutional aspects of police matters is not fully harmonized yet, while providing support to the police restructuring process, EUPM continues the "bottom-up approach" to advocate and advise the harmonization and development of the legislation to reform the existing police bodies in the entities, cantons and Brcko District. In this context, EUPM expects to achieve significant progress in the area of police reform by the end of 2009.

13. Nevertheless, while there are goals that can be achieved by the end of 2009, it should be noted that, considering the sometimes challenging political context, delays are likely to occur within the planned time frame.

Police restructuring

Law on the Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure of Bosnia and Herzegovina and Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina

14. After their adoption by the Bosnia and Herzegovina Parliamentary Assembly on 16 April 2008, the Law on the Directorate for Coordination of Police Bodies and Agencies for Support of Police Structure of Bosnia and Herzegovina and the Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina (police reform laws) came into force on 14 May 2008. With the adoption of the police reform laws, four new coordination and support institutions and three supervisory and oversight bodies will be established at State level.¹

15. The initiation of the implementation of this process lies with the Bosnia and Herzegovina Parliamentary Assembly and the Bosnia and Herzegovina Ministry of Security.

16. The Bosnia and Herzegovina Ministry of Security established the Selection Commission in charge of selecting the Directors and the Deputy Directors of the Agency for Police Support, the Agency for Education and the Agency for Forensic Examinations and Expertise, as envisaged in the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to Police Structure of Bosnia and Herzegovina. The Selection Commission completed its task and

¹ Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, Agency for Forensic Examinations and Expertise, Agency for Education and Advanced Training of Personnel, Police Support Agency, Independent Board, Board for Complaints of Police Officials, Public Complaint Board.

forwarded the ranking lists to the Minister of Security on 25 July 2008, who should propose it to the Bosnia and Herzegovina Council of Ministers for final appointment. The Minister's proposal has not been sent for further procedure yet.

17. The Bosnia and Herzegovina Parliamentary Assembly appointed the ad hoc Joint Commission for conducting the procedure for appointing the Independent Board and the Public Complaints Board, as envisaged in the Law on Independent and Supervisory Bodies of the Police Structure of Bosnia and Herzegovina. The Independent Board shall select the Director and Deputies of the Directorate for Coordination of the Police Bodies of Bosnia and Herzegovina. Although the establishment of the Commission was done in a timely manner, the ad hoc Commission failed to complete its task within the set legal deadline (14 August 2008). Moreover, the ad hoc Commission asked for EUPM assistance in drafting the necessary decisions and fulfilling its task. EUPM will continue to assist the Commission and further monitor the process.

18. The actual appointments will depend on political will and arrangements between the political parties. Additionally, decisions on the location and establishment dates of the newly established agencies will have to be made by the Bosnia and Herzegovina Council of Ministers.

19. The Commission for Harmonization was established by the Ministry of Security on 1 July 2008 in order to harmonize relevant laws with the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to the Police Structure of Bosnia and Herzegovina, and the Law on Independent and Supervisory Bodies of Bosnia and Herzegovina. According to the Decision on its establishment, the Commission was tasked to finalize the harmonization process by 31 August 2008. Considering the number of laws that need to be adjusted to the provisions of the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to the Police Structure of Bosnia and Herzegovina and the Law on Independent and Supervisory Bodies of Bosnia and Herzegovina, the Commission could not finalize the work by the given deadline. Therefore the Commission has asked to extend its mandate for another 15 days. The Minister accepted the proposal and passed the Decision on Extension of the Mandate of the Commission for Harmonization, according to which the Commission is obliged to finalize the harmonization of the relevant legislation with the newly adopted laws by 15 September 2008. The Commission completed its work and submitted the final proposals to the Minister for approval. EUPM participates in the work of the Commission and follows all related developments.

Police reform efforts

20. Besides providing support to the police restructuring process, EUPM is proactively engaged in harmonizing and developing the existing legislative framework related to police bodies.

21. At State level, the police reform laws were pivotal in prompting a review of the SIPA structure and functioning, which led to amending the SIPA Law and establishing a commission to work on streamlining the structure. EUPM is providing assistance in the institution-building of the Border Police by monitoring and advising the police in implementing the integrated border management strategy funded by the EC CARDS programme. Related to this strategy is the Law on Border Control which is in the legislative procedure. EUPM assisted SIPA and the Border

Police in enhancing relations with competent institutions drafting the Law on Salaries at the State level, which, among others, regulates the salaries of police bodies at the State level. EUPM also provided technical assistance to the Ministries of Security and Finance in harmonizing the Law on Salaries with police-related legislation. At the entity level, EUPM is steadily engaged in assisting in drafting the Law on Police Officials and the Law on Internal Affairs of the Republika Srpska, which ultimately will lead to the harmonization of these key laws related to police in both entities. In Brcko District EUPM is assisting the local authorities in drafting the Brcko District Law on Police, regulating the police structure and functioning. At the cantonal level EUPM is continuously assisting the cantonal authorities in finalizing the cantonal Law on Internal Affairs, whose process was halted due to discrepancies on key issues.

Support in the fight against organized crime

22. Supporting the local police in the fight against organized crime is a central element of the EUPM mandate. Within EUPM two main departments are tasked with increasing the capacity of law enforcement agencies in the fight against organized crime: the Anti-Organized Crime Department and SIPA. Additionally, EUPM Border Police and the regional and field advisers have designated roles in this area.

23. Support in the fight against organized crime focused on specific cases, which EUPM monitored and advised upon, as well as on institution-building aspects. The Mission undertook further steps to transition its targeted approach to local police bodies, with SIPA performing a lead function. EUPM advised on key operations and on the development of technical capabilities; essential technical capabilities were made operational during the reporting period. Relations between police and prosecutors were further developed through specific case work and through the development of investigation management and other coordination mechanisms under the auspices of the High Judicial and Prosecutorial Council. Links between the police and the penitentiary system were strengthened.

Relations between police and prosecutors

24. The EUPM Anti-Organized Crime Department-Criminal Justice Unit has monitored cases that involved a significant element of cooperation between law enforcement agencies and the Prosecutor's Office. These have ranged from cases at the appeal level to cases that are problematic and challenging to police and prosecutors.

25. During the reporting period, the EUPM Criminal Justice Unit has reinforced its capacities in the regions in order to further strengthen the relationship between police and prosecutors. It is widely recognized that the relationship between these two agencies is crucial.

26. The Criminal Justice Unit continues to host a seminar for police and prosecutors on standardization of police investigation forms. Police and prosecutorial representatives from Bosnia and Herzegovina established proposals for standardized versions of a total of more than 20 investigative forms, including reports on criminal offences, minutes on searches and other investigative measures, as well as records on suspect and witness examinations. It is anticipated that this

will improve the effectiveness of criminal investigations throughout the country and contribute to enhanced cooperation between the different jurisdiction levels.

27. In April the High Judicial and Prosecutorial Council began the process of implementation of its project on cooperation between police and prosecutors by initiating the signing of a memorandum of understanding. On 9 April, the Agreement on Cooperation to implement the High Judicial and Prosecutorial Council project "Establishment of enhanced mechanisms of cooperation between the police and prosecutors' offices" was signed by the High Judicial and Prosecutorial Council President, the Bosnia and Herzegovina Ministry of Justice, the Bosnia and Herzegovina Ministry of Security, the Federation of Bosnia and Herzegovina Ministry of the Interior and Republika Srpska Ministry of the Interior representatives.

28. The High Judicial and Prosecutorial Council project implementation process follows up previous EUPM activities in the area of cooperation between police and prosecutors. The project benefits from the EUPM achievements and EUPM will continue to actively support the project and its implementation during the second half of the year.

29. From May to July, the Mission organized specific media workshops for prosecutors, helping them to enhance their skills in communicating with the public on major and organized crime. It was agreed that the High Judicial and Prosecutorial Council, in cooperation with EUPM, would organize a fourth conference on cooperation between police and prosecutors around mid-October, in accordance with the project development.

Strengthening accountability of the police

30. The Mission carried out general and targeted inspections, including of private and police duty weapons registration and issuance of licences, registration and supervision of private security companies, and the use and deployment of donated equipment by the International Criminal Investigative Training Assistance Programme. Inspections resulted in a number of observations that are being addressed by the Mission in cooperation with the relevant police authorities and the public prosecutors, as appropriate.

31. The Missions has started a thorough review of complaints about police conduct. The review will be carried out in the coming period.



Security Council

Distr.: General
26 November 2008

Original: English

Report of the Secretary-General on the Situation in the Central African Republic and the activities of the United Nations Peacebuilding Support Office in that country

I. Introduction

1. The present report is submitted in compliance with the request of the Security Council contained in the presidential statement dated 26 September 2001 (S/PRST/2001/25), in which the Council requested me to continue to keep it regularly informed of the situation in the Central African Republic and the activities of the United Nations Peacebuilding Support Office in the Central African Republic (BONUCA). The report covers the period from June to November 2008 and focuses on political, security, socio-economic, humanitarian and human rights developments during that period. It also provides information on the work of the Peacebuilding Commission and the Peacebuilding Fund in the Central African Republic, as well as recommendations on the United Nations presence in that country, pursuant to the request of the Security Council dated 27 June 2008.

II. Political situation

2. Since my previous report to the Council, dated 23 June 2008 (S/2008/410), the political situation in the Central African Republic has been dominated by efforts to create a conducive environment for the convening of an inclusive political dialogue. The dialogue continues to be widely seen as a crucial first step towards national reconciliation and the stabilization of the country. As legislative and presidential elections, scheduled for 2010, are approaching, the dialogue is also seen as a process that could promote political inclusiveness ahead of the elections, without which the elections might not take place or their outcomes could be contested. Such a development could constitute an additional destabilizing factor in the Central African Republic.

3. The Council will recall that the holding of the dialogue was premised on the signing of a ceasefire agreement between the Armée populaire pour la restauration de la démocratie (APRD) and the Central African authorities, the signing of a comprehensive peace agreement between the Government and major rebel movements, and the adoption by the Government of a general amnesty law to enable all national political stakeholders, including members of rebel movements and



exiled opposition leaders, to participate in the inclusive political dialogue. This sequencing was part of the consensus that emerged from the meetings of the Dialogue Preparatory Committee, held between January and April 2008.

4. Consequently, the ceasefire and comprehensive peace agreements were signed on 9 May 2008 and 21 June 2008, respectively, in Libreville. The Comprehensive Peace Agreement calls for disarmament, demobilization and reintegration, as well as for amnesty for rebel fighters and their leaders. However, an abrupt halt in the dialogue preparations in August 2008 followed the tabling by the Government of three draft amnesty laws before an extraordinary session of the National Assembly. This prompted some key stakeholders, including APRD and the coalition of opposition parties, Union des forces vives de la nation (UFVN), to withdraw from the peace process. In their view, the draft laws were a violation of the letter and spirit of the recommendations of the Dialogue Preparatory Committee and the 21 June 2008 comprehensive peace agreement, as those draft laws were seen as favouring forces associated with President François Bozizé. The opposition and the rebel movements demanded the adoption of a general amnesty law that would cover alleged offences and crimes committed by all signatories of the peace agreements and their accomplices.

5. The withdrawal of UFGV and APRD from the dialogue process prompted my Special Representative, François Lonseny Fall, to engage in intensive consultations with various national stakeholders, and regional and international partners, with a view to breaking the deadlock and reviving the stalled peace process. In order to facilitate the resolution of the deadlock in the political process, I have met twice with President Bozizé to encourage him to take the necessary measures to facilitate the holding of the dialogue as soon as possible. During our meetings, President Bozizé reaffirmed his determination to hold the inclusive political dialogue.

6. On 15 September 2008, the first meeting of the Follow-up Committee to the Libreville Comprehensive Peace Agreement was convened under the chairmanship of the then Minister for Foreign Affairs of Gabon, Laure Gondjout. In the final communiqué issued after the meeting, the Committee called for strict compliance with the provisions of the 9 May and 21 June 2008 agreements and mandated the Mission de consolidation de la paix en Centrafrique (MICOPAX), the regional peace force of the Economic Community of Central African States (ECCAS), to supervise the implementation of an immediate ceasefire. During the meeting, APRD President Jean-Jacques Demafouth announced the return of his movement to the peace process.

7. In the meantime, the National Assembly had concluded its consideration of the amnesty bills and adopted, on 29 September, a single consolidated general amnesty law. The Amnesty Law covers offences committed by Government security and defence forces and rebel elements from 15 March 2003 to the date of the promulgation by President Bozizé of the law on 13 October 2008. It provides amnesty specifically to former President Ange-Félix Patassé, APRD President Jean-Jacques Demafouth, and the Forces démocratiques pour le peuple centrafricain (FDPC) leader Martin Koumtamadji, alias Abdoulaye Miskine, and their accomplices for embezzlement of public funds and assassinations, among other offences. The amnesty for rebel fighters is contingent on the fulfilment of certain conditions, including the commencement of a disarmament, demobilization and reintegration process within 60 days of the promulgation of the law.

8. Following the promulgation of the Amnesty Law on 13 October 2008, some national political stakeholders, including UFVN and APRD, rejected it and called for a review of the law, describing the conditions set out therein as unrealistic and unhelpful for the process of reconciliation. UFVN deplored what it described as the procedural flaws in the process leading to the adoption of the amended version of the initial draft agreed upon at the committee level of the National Assembly. The APRD President described the amnesty law as unacceptable and inconsistent with the spirit of the Libreville Agreement. He insisted that the cantonment of APRD elements should take place only after the dialogue.

9. On 24 October, the second meeting of the Follow-up Committee to the Libreville Comprehensive Peace Agreement was convened in Libreville, under the chairmanship of the new Minister for Foreign Affairs of Gabon, Paul Toungui. The Committee discussed the evolution of the situation in the Central African Republic since its previous meeting. While welcoming the promulgation of the Amnesty Law, the Committee took note of the concerns expressed by APRD and UFVN regarding the interpretation of certain provisions of the said law and, in this regard, decided to refer the matter to President El Hadj Omar Bongo Ondimba of Gabon for mediation, in his capacity as mediator of the Central African Republic peace process. The Committee also took note of a disarmament, demobilization and reintegration proposal made by the Government of the Central African Republic and decided to set up a working group to develop modalities of its implementation. The group is expected to submit its report by 18 November 2008 to the next meeting of the Follow-up Committee in Libreville. Such confidence-building initiatives between the parties will be crucial for the successful implementation of the disarmament, demobilization and reintegration programme and the political dialogue may provide a suitable forum for building the required confidence.

10. On 7 November, President Bozizé signed a decree, expanding, to include opposition and rebel movements, the membership of the Dialogue Organizing Committee, an entity established in June 2008 to work on practical arrangements for the organization of the inclusive political dialogue. This had been a contentious issue since the establishment of the Committee. Following consultations with the opposition groups, the Government proposed, in the presidential decree of 15 November, to hold the dialogue from 5 to 20 December 2008. The names of four eminent African personalities, one of whom could be designated to chair the dialogue, have since been submitted to President Bongo of Gabon, in his capacity as mediator for the peace process in the Central African Republic, for decision.

11. Additionally, in a bid to create a more propitious political environment in the country, the Government recently released from prison 12 rebel leaders and fighters in compliance with the Amnesty Law of 29 September. This gesture was welcomed by the President of APRD, who in his letter dated 31 October informed President Bozizé that he had instructed his field commanders to identify sites for cantonment of rebel fighters.

12. It remains a matter of increasing concern to me that, despite the progress made towards the holding of the dialogue, new rebel groups, including splinter factions from existing groups, have emerged and consider themselves as being left out of the peace process. The new groups have repeatedly carried out attacks against Government forces in the unstable northern prefectures, and may constitute a new

threat to peace and stability in the Central African Republic, including in the immediate aftermath of the dialogue.

III. Military and security situation

13. The security situation in Bangui and its surrounding areas has remained relatively calm during the reporting period. However, reports of acts of burglary, break-ins and racketeering, involving elements of the defence and security forces, continued. In September, security in Bangui was strengthened amid speculation of attempts to destabilize the Government. No explanation was provided by the authorities for the heightened security measures. The measures came in the wake of the interception by the security forces, on 14 September 2008, of a vehicle loaded with light weapons in Bangui and reportedly destined for Bria in the Haute-Kotto prefecture, as well as the landing at the city's airport of four helicopters during the night of 24 September. The Director of the country's Immigration Services was killed by unidentified assailants in October.

14. In the north-western and north-central parts of the country, intermittent clashes have occurred between Government forces and various rebel groups. The union des forces démocratiques pour le rassemblement (UFDR) and FDPC rebel movements have, by and large, continued to observe a ceasefire since the signing of the 21 June 2008 comprehensive peace agreement. However, between 25 July and 31 October 2008, nine clashes were reported between APRD and Government forces, mainly in the north-western prefecture of Ouham-Pendé. The clashes left several people dead on both sides. On 12 November, an unidentified armed group carried out a deadly attack against Government forces in the locality of Sido along the border of the Central African Republic with Chad. In this regard, FACA has been reinforcing its positions in the prefectures of Ouham, Ouham-Pendé and Nana-Grebizi, and embarking on a massive countrywide recruitment drive.

15. In the north-eastern prefectures of Vakaga and Bamingui-Bangoran, the traditional strongholds of UFDR, the situation has remained relatively calm. This could be attributed to the adherence to the April 2007 Birao Peace Agreement and the presence of the European Protection Forces (EUFOR) in the area. However, infighting within the leadership of the UFDR movement has resulted in the emergence of splinter groups such as the Mouvement des jeunes libérateurs centrafricains (MJLC) and the Forces pour l'unification de la République centrafricaine (FURCA). In a show of strength, these groups attacked and briefly occupied the locality of Am Dafock in early October 2008, overrunning the national police and gendarmerie stations. On 8 November, a relatively unknown armed group, suspected to be a UFDR splinter group, attacked the town of Sam Ouandja, which hosts some 3,000 refugees from Darfur. As a result, on 9 November, nine humanitarian workers were evacuated by EUFOR elements.

16. Activities by highway bandits commonly known as zaraguinas have significantly decreased with the beginning of the rainy season, but continue to disrupt internal trade. Zaraguinas continue to operate with impunity in Ouham, Ouham-Pendé and Nana-Grebizi prefectures. In October, they attacked the village of Gaiboulaye and took seven people hostage.

17. The activities of self-defence groups, created initially to protect the local populations against zaraguinas, have considerably evolved in Ouham-Pendé

prefecture, where they have now reportedly transformed themselves into armed militias supporting the Government in its fight against the rebels. This has reportedly given rise to a cycle of reprisal attacks by APRD against local populations.

18. The situation in the south-eastern part of the country, in the prefecture of Haut-Mbomou, continues to be a source of concern due to the virtual absence of State authority and fears of possible incursions by elements of the Lord's Resistance Army (LRA) operating in northern Uganda. However, no LRA incursions have been reported since March 2008.

19. Operating traditionally in the eastern and north-eastern prefectures of Vakaga and Haute-Kotto, poachers have been gradually extending their scope of operations to the south-eastern parts of the country. Better armed and equipped, these groups reportedly traffic and sell small arms and light weapons. Although their activities have been curtailed by the rainy season, the possibility of collusion with zaraguinas or other armed groups could further destabilize the Central African Republic.

20. On 12 July, the operational responsibilities for the subregional peace force in the Central African Republic, FOMUC, were transferred from the six-member Economic and Monetary Community of Central Africa (CEMAC) to the 10-member ECCAS. The force, now called MICOPAX (see para. 6 above), apart from its military component headed by Force Commander Hilaire Moko of the Congo, will also have police and civilian components under the overall leadership of a Special Representative of ECCAS. The mandate of MICOPAX will include the provision of assistance in consolidating peace and security, and in supporting the peace process and promoting respect for human rights.

21. BONUCA has provided capacity-building support to enhance the operational capabilities of 87 police officers and 40 gendarmes through training in criminal investigations, information gathering, professional standards and ethics. BONUCA has also organized training for 9 radio transmission technicians from the gendarmerie, 22 military administrative officers and 20 military engineers.

22. BONUCA has continued to support the United Nations Mission in the Central African Republic and Chad (MINURCAT) in the implementation of its mandate in the Central African Republic. My Special Representative, François Lonseny Fall, visited N'djamena in September 2008 to discuss with Special Representative Victor Da Silva Angelo ways of strengthening cooperation between the two missions and enhancing structured and coordinated collaboration to foster synergies and avoid duplication of efforts.

IV. Activities of the Peacebuilding Commission and the Peacebuilding Fund

23. During the period under review, the United Nations has worked in partnership with the authorities of the Central African Republic to complete the establishment of structures and mechanisms to support the implementation of a priority plan, approved for funding by the Peacebuilding Fund in June 2008. The priority plan addresses the immediate needs of the Central African Republic in the areas of security sector reform, good governance and the rule of law, and revitalization of communities affected by conflict. I have allocated \$10 million from the

Peacebuilding Fund for these priorities. The Peacebuilding Support Office and the Multi-Donor Trust Fund of the United Nations Development Programme (UNDP) have fielded two missions to support rapid implementation.

24. A National Steering Committee, co-chaired by the Minister of State for Planning, the Economy and International Cooperation, and my Special Representative, has selected a total of 9 projects out of 26 submitted proposals in all three priority areas, for a total amount of over \$5.4 million. These projects will be implemented by UNDP, the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), with relevant national partners. A second allocation from the Peacebuilding Fund could be forthcoming after the finalization, by the Peacebuilding Commission and the national authorities, of an integrated peacebuilding strategy for the Central African Republic.

25. At its second formal meeting in New York on 8 October under the chairmanship of Jan Grauls of Belgium, the Peacebuilding Commission's country-specific configuration heard a presentation by a representative of the Government of the Central African Republic on the country's peacebuilding priorities, which were later endorsed by the Commission. They include: (a) security-sector reform; (b) good governance, strengthening of the rule of law and respect for human rights; and (c) establishment of development poles. The inclusive political dialogue was identified as a cross-cutting priority. The Commission also held a thematic discussion on security-sector reform, and the rule of law and good governance on 22 October. A further thematic discussion will be held on the establishment of development poles.

26. Meanwhile, a Peacebuilding Commission delegation, led by Jan Grauls of Belgium, undertook a field visit to the Central African Republic from 30 October to 6 November to pursue its engagement with the Government of the Central African Republic and other key stakeholders on the main peacebuilding priorities and challenges facing the country, the actions being undertaken by the Government to address those challenges and the nature and scope of international support needed by the country. The field visit should help the members of the Commission in drafting the integrated peacebuilding strategy for the Central African Republic by gaining a better understanding of the realities on the ground. In the meantime, the Government has appointed its Minister of Planning and International Cooperation as the national focal point to coordinate the Government's engagement with the Commission.

27. Work towards the elaboration of an integrated peacebuilding strategy for the Central African Republic has thus been ongoing in the Peacebuilding Commission. The strategy will be the instrument of engagement that will govern the long-term relationship between the Commission and the Central African Republic. The document will be informed by a comprehensive mapping exercise of resources and gaps for peacebuilding in the Central African Republic. It is critical that the Central African Republic authorities maintain proactive engagement with the Commission during the ongoing process of developing an integrated peacebuilding strategy and make all efforts to ensure political stability, particularly at a time when the international community and the Commission, in particular, have actively

strengthened their engagement to help address the country's multifaceted challenges.

V. Socio-economic and financial situation

28. The socio-economic situation in the Central African Republic has been characterized by a slowdown in economic growth attributed to the difficult international economic environment, the decline of production in the agricultural, forest and mining sectors, delays in the mobilization of financial resources for the implementation of the poverty reduction strategy paper and constraints in the production and distribution of water and electricity.

29. The gross domestic product is expected to reach 849 billion CFA francs in 2008, against 805 billion CFA francs in 2007, representing a real growth of 3.5 per cent in 2008, compared with 4.2 per cent in 2007. This growth is driven by domestic demand resulting from more regular payment of salaries to civil servants, the payment of arrears due to cotton farmers, the creation and extension of factories in the timber sector, and the rehabilitation of fuel stations in the provinces.

30. In spite of the reduction of tax rates on some imported foodstuffs, the sharp rise in the prices of essential commodities, the adjustment of prices of oil products and the shortage of cement resulted in an increase of the annual inflation rate to 5.4 per cent, during the first half of 2008, against 1.6 per cent at the end of June 2007. During the same period, Government revenue increased by 6 per cent, from 44.1 billion CFA francs in the first quarter of 2007 to 46.6 billion CFA francs during the same period in 2008. Public expenditure decreased by 13 per cent compared with the same period last year. The increase in Government revenue is attributable to improved tax collection, the broadening of the Government's tax base and reforms in the fiscal system. Non-tax revenue also increased as a result of revenue accruing from licence fees in the telecommunications sector.

31. Economic prospects for 2009-2010 will largely depend on further stabilization of the country after the organization of the inclusive political dialogue, the continued rise in commodity prices, the evolution of the exchange rate for the United States dollar, the resumption of foreign direct investment, particularly in the mining and telecommunications sectors, the pursuit of reforms within the framework of the implementation of the poverty reduction strategy paper and improved relations with the international community.

32. The latest projections by the Government of the Central African Republic suggest that, based on current growth rates, the country's gross domestic product would rise to 950 billion CFA francs in 2009, with an actual gross domestic product growth rate of 3.9 per cent. This would mainly be attributable to improved performance of the cotton sector, the allocation of new forest exploitation licences, in accordance with the new forestry code, the commencement of uranium and diamond mining operations, and a boost in the construction sector, in particular roads, social housing and administrative buildings.

VI. Humanitarian situation

33. At the end of October 2008, the United Nations High Commissioner for Refugees gave the number of internally displaced persons in the Central African Republic as 108,000. Many of them continue to live in precarious conditions, with fear of being caught up in sporadic fighting between national security forces and APRD rebels. The number of Central African refugees in neighbouring Cameroon, Chad and the Sudan was estimated at 101,245. According to United Nations humanitarian agencies, some 85,000 Central African internally displaced persons and refugees have returned to their communities of origin. The number of refugees and asylum-seekers residing in the Central African Republic stood at 7,519. There are currently a total of 3,199 Sudanese refugees from southern Darfur living in Sam Ouandja camp, in Haute-Kotto prefecture.

34. In the framework of the humanitarian protection strategy, the Office of the High Commissioner for Refugees (UNHCR), in collaboration with UNICEF and BONUCA, continued holding sensitization training courses in the Central African Republic for civilian authorities, members of the armed and security forces, and the regional peace force, MICOPAX, on human rights, international humanitarian law and the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex). In addition, UNHCR has secured the approval of the Central African authorities for the same training courses to be extended to the Republican Guard.

35. The recruitment of children by armed groups has continued, and over 700 children remain associated with them. UNICEF and its partners have, thus far, separated 400 children from the UFDR rebel movement, and activities to reintegrate them into their communities have begun. In addition, UNICEF and its partners are preparing for the imminent release of 250 children currently associated with the APRD rebel movement.

VII. Operational activities in support of development

36. In the area of food security, FAO is implementing a market gardening programme that will reach 28,000 vulnerable families, 12,000 of whom are said to be affected or infected by HIV/AIDS. A programme aimed at transferring goats to conflict-affected areas is being implemented in 300 target associations comprising widows and other female heads of families. In order to alleviate the effects of rising foodstuff prices, FAO is carrying out a programme to supply 8,600 families with agricultural inputs.

37. From January to August 2008, the World Food Programme (WFP) provided assistance to 244,000 vulnerable and conflict-affected people with a total of 20,000 tons of food commodities, including emergency relief to internally displaced people and Sudanese refugees, school feeding for primary and preschool children, nutritional supplementary feeding for malnourished children and pregnant and lactating women, food for work projects for the rehabilitation of basic infrastructures and food aid to HIV-affected households. WFP continues to facilitate the movement of personnel and goods of the humanitarian community in the Central African Republic through its United Nations Humanitarian Air Service.

38. In the health sector, UNICEF has supported 7 therapeutic feeding centres and more than 10 outpatient centres in order to treat children suffering from acute

malnutrition. UNFPA has rehabilitated and equipped several health and youth centres. UNICEF, WHO and UNFPA have provided support to the authorities in dealing with outbreaks of measles, meningitis, hepatitis E, yellow fever and poliomyelitis. UNICEF and WHO have supported national immunization programmes against poliomyelitis, a three-round tetanus immunization campaign, a forum on access to health care for pregnant women and children and the fight against an outbreak of rabies in Bangui. UNICEF will distribute 740,000 insecticide-treated mosquito nets throughout the country.

39. In order to lessen the impact of the energy crisis, which has affected Bangui since June 2008, UNFPA supplied four power generators for health centres. Emergency medical kits have been distributed to humanitarian non-governmental organizations and to public health institutions through the Ministry of Health. UNFPA has carried out several initiatives to ensure uninterrupted water supply to maternity wards. UNICEF and partners have rehabilitated and constructed new water points, and distributed hygienic kits and water equipment, including to internally displaced persons.

40. UNESCO has provided assistance to the Ministry of Education in mobilizing \$37.7 million under the fast track initiative by December 2008. UNICEF and its partners have facilitated the reopening of public schools and expanded rural schools for displaced children, allowing 74,000 children in the conflict-affected northern prefectures to return to school.

VIII. Human rights and the rule of law

41. The human rights situation in the Central African Republic during the reporting period has remained a matter of concern. Several cases of violations of the right to life, physical integrity, and freedom of movement by both Government defence and security forces and by the APRD elements have been reported. Cases of summary and extrajudicial executions have also been reported in conflict zones. Despite the signing of the Libreville agreements, the APRD elements have continued to carry out atrocities in areas under their control, including killings, pillaging, racketeering and forced enlistment of young villagers into self-defence groups or as informants. Clashes between APRD and Government forces have resulted in the displacement of some sections of the population.

42. Impunity continues to be a major challenge as alleged perpetrators of serious violations remain unpunished. The phenomenon of mob justice has become more widespread, including the execution of people accused of witchcraft. Prison inmates continued to be subjected to inhuman, cruel and degrading treatment by police investigators and elements of the Republican Guard assigned to detention centres as prison wardens. Prison conditions continue to be appalling, with prisons being overcrowded and lacking basic necessities, such as good drinking water, food for inmates, sanitation, health care and training for prison staff.

43. The judicial system continues to be undermined by arbitrary arrests, detention and delays in the administration of justice. Controversy over the Law on the Reorganization and Functioning of the Conseil Supérieur de la Magistrature seriously disrupted the functioning of the country's justice system due to strikes in September. The Law, which was adopted by the National Assembly amid public outcry, was subsequently declared unconstitutional by the Constitutional Court and

sent back to the Government for review. The amended Law, incorporating some of the recommendations of the Constitutional Court, was promulgated by President Bozizé on 23 October 2008.

44. In October, BONUCA published its first public report on the human rights situation in the country. The main objective of the publication was to engage the Government in a constructive manner with a view to helping it to adopt appropriate measures to address human rights challenges. On its part, the Government has made efforts to restore discipline and revamp the image of the armed forces through the dismantling of illegal checkpoints, dismissal of culprits and greater openness regarding operations in the north of the country.

45. Within the context of a common action plan between the members of the Protection Cluster, the Government of the Central African Republic and national human rights non-governmental organizations, two reports on violence committed against civilians since the beginning of 2008 and recommendations for remedial action have been shared with the Central African authorities. Furthermore, BONUCA and UNHCR, in collaboration with the members of the Protection Cluster, have taken steps with the Central African authorities for the establishment of a hotline for victims of human rights violations, including sexual and gender-based violence.

46. BONUCA has continued to provide support and training to the national women's organizations and national authorities in the areas of women's rights, women's living conditions in prisons, and women's participation in decision-making processes, in particular in the context of the preparation of the inclusive political dialogue. Within the framework of its partnership agreement with a local radio station, Radio Ndeke-Luka, BONUCA continues to organize a weekly programme on the promotion of the culture of peace, national reconciliation and protection of human rights in the Central African Republic.

IX. Review of the United Nations presence in the Central African Republic

47. In a statement to the press read by the President of the Security Council on 27 June 2008, the Council requested me to make recommendations on how the mandate given to BONUCA and to my Special Representative, as well as the configuration of BONUCA and the United Nations country team, should be revised to effectively support the work of the Peacebuilding Commission. In that context, an Inter-Agency Working Group on the Central African Republic was established in July 2008 to undertake a review of the United Nations presence and operational mandates in the country. Led by the Department of Political Affairs, the Working Group includes representatives of the Peacebuilding Support Office, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Department of Safety and Security, UNDOCO, UNDP, the Department of Field Support, the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNHCR, UNICEF and WFP. In order to help finalize its review, the Group undertook a mission to the Central African Republic, from 28 to 30 October 2008, in order to consult with United Nations entities on the ground, national authorities and other international partners.

48. Through its meetings with national and international stakeholders, the inter-agency mission concluded that the primary challenge facing the Central African Republic was the resolution of the ongoing armed conflict, particularly in the northern prefectures, with a view to establishing sustainable peace in the country. It was also recognized that progress to that end depended on both the inclusive political dialogue and the improvement of the living conditions of the population.

49. With regard to the revision of the United Nations presence in the Central African Republic, the national and international stakeholders underscored the need for the United Nations to speak with one voice and act in a coherent and coordinated manner. While immediate measures will be taken to strengthen coordination between BONUCA and the United Nations country team within the framework of agreed common vision, objectives and priorities, and with a view to supporting the engagement of the Peacebuilding Commission in the Central African Republic, I intend to prepare proposals for an integrated United Nations presence for the Council's consideration.

50. With regard to the mandate of BONUCA for 2009, and in view of the forthcoming inclusive political dialogue, scheduled to take place from 5 to 20 December 2008, and its follow-up, it would be crucial that the Central African authorities receive the necessary support in implementing the conclusions of the dialogue. I therefore recommend that the mandate of BONUCA be extended for an additional year, from 1 January to 31 December 2009. During that period, BONUCA will: (a) assist the Central African authorities in the implementation of the outcomes of the inclusive political dialogue as well as peace agreements the Government signed with the country's rebel movements in 2008; (b) support the engagement of the Peacebuilding Commission and the Peacebuilding Fund in the Central African Republic; (c) contribute to the mobilization of resources to help the Central African Republic to enhance transparent political and economic governance; (d) promote respect for human rights and the rule of law; (e) provide and coordinate assistance, as appropriate, in the preparation of credible and transparent elections scheduled for 2010; and (f) continue to support MINURCAT operations in the Central African Republic.

X. Staff security

51. The dire socio-economic challenges faced by the population at large continue to contribute to the rise in criminality. During the reporting period, three traffic accidents and one home break-in affected United Nations staff members. United Nations personnel can circulate in the country, in accordance with security rules and specific guidelines, depending on the security phase in effect for areas to be visited. During the period under review, United Nations activities have been suspended in parts of north-western Central African Republic due to increased armed confrontations between the Government and rebel forces. Following an attack on the north-eastern town of Sam Ouandja on 8 November, one United Nations staff member and eight humanitarian workers were evacuated by EUFOR on 9 November. United Nations activities are currently suspended in that part of the country.

XI. Observations

52. The overall political, security and socio-economic situation in the Central African Republic remains fragile, compounded by a weak economy, multifaceted social problems and impunity, related to deep security challenges, particularly in the northern and south-eastern parts of the country. The culture of impunity for perpetrators of human rights violations by APRD rebel elements and Government forces continues, and it is an area of immediate and continuing concern.

53. I welcome the decision of the Government of the Central African Republic to convene the long-awaited inclusive political dialogue from 5 to 20 December 2008. I encourage the Central African authorities to bring this important initiative to a successful completion. The United Nations remains committed to supporting the process as the only viable and sustainable option to put a definitive end to the cycle of political and security instability in the Central African Republic. I, therefore, renew my appeal to all national stakeholders, in particular the Government and the armed groups, to work together within the framework of the signed peace agreements and to address their differences by peaceful means for the greater interest of the people of the Central African Republic.

54. The past six months have witnessed serious challenges for humanitarian workers, particularly due to activities of armed rebel groups, highway bandits and poachers as well as Government security and defence forces. In this regard, I wish to renew my appeal to all parties to give unhindered access to allow humanitarian assistance to reach the populations in need and to ensure adequate protection for humanitarian workers. This is critical for addressing the massive humanitarian challenges facing the Central African Republic. I also wish to commend the humanitarian agencies for their important work under very difficult circumstances.

55. In taking note of the recent transfer of operational responsibilities of the subregional peace force in the Central African Republic from CEMAC to ECCAS, I wish, once again, to commend the subregional leaders as well as the African Union and the European Union for their important political and financial support to that force. I appeal to them, as well as to other members of the international community, to continue to support MICOPAX to enable it to effectively discharge its mandate in close cooperation and coordination with the United Nations.

56. Addressing the socio-economic challenges facing the Central African Republic calls for commitment, dedication and unity of purpose among the various segments of society, including the Government, political parties, civil society and politico-military groups. The United Nations remains committed to supporting the people and Government of the Central African Republic in dealing with these challenges.

57. The recent release of the first public report on the human rights situation in the Central African Republic offers a unique opportunity for the opening of a constructive dialogue between the United Nations and the Central African authorities to address human rights challenges. I urge the Central African authorities to seize this opportunity to strengthen the rule of law and promote good governance by ensuring the promotion and protection of human rights and fundamental freedoms and addressing the culture of impunity, with a view to its eradication.

58. I wish to express my appreciation to all United Nations offices on the ground, which continue to deliver vital assistance, within the framework and scope of their

respective mandates, to support the Central African authorities in their efforts to improve the complex situation in the country. As the recent inter-agency process demonstrated, there is a need to build on the existing achievements in our efforts to make United Nations assistance in promoting and consolidating peace in the country more coherent. As we endeavour to foster a more coordinated approach to our work in the Central African Republic, the Special Representative of the Secretary-General and the Resident Coordinator/Humanitarian Coordinator will be at the core of these efforts by bringing United Nations political and operational activities in the Central African Republic into greater harmony. I will revert to the Council with recommendations on an integrated approach that may further increase our concerted efforts in that country.

59. Finally, I wish to pay tribute to the President of Gabon, El Haj Omar Bongo Ondimba, for his untiring efforts in fostering peace and reconciliation in the Central African Republic. I take this opportunity also to convey my appreciation to the regional actors and organizations, as well as other international partners, for their contribution to the search for peace and stability in the Central African Republic. I would also like to commend my Special Representative in the Central African Republic, François Lonseny Fall, and his staff, as well as members of the United Nations country team, as a whole, for their continued commitment and dedication to the demanding cause of peace and development in the Central African Republic.

**Security Council**

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Third report of the Secretary-General submitted pursuant to Security Council resolution 1757 (2007)**I. Introduction**

1. Under Security Council resolution 1757 (2007), I was mandated to take, in coordination, when appropriate, with the Government of Lebanon, the steps and measures necessary to establish the Special Tribunal for Lebanon in a timely manner and to report to the Security Council within 90 days and thereafter periodically on the implementation of the resolution.

2. Since my second report, dated 12 March 2008 (S/2008/173), progress has been made in a number of areas, including (a) the location of the seat of the Special Tribunal; (b) the appointment of the judges, the Prosecutor and the Registrar and the selection of the Head of the Defence Office; (c) preparatory work on the drafting of the Rules of Procedure and Evidence and other necessary legal documents; (d) the activities of the Management Committee; (e) the preparation of the budget and the recruitment of personnel; (f) the arrangements for the transition from the International Independent Investigation Commission to the Special Tribunal; (g) the fulfilment of the funding requirements; (h) the taking of all necessary security measures; and (i) the development of a communication and outreach programme.

3. The present report sets out the progress achieved thus far in the establishment of the Special Tribunal, and provides an outline of the remaining steps to be taken before it can commence functioning. On the basis of the progress so far reported by the Registrar, and following consultation by the Legal Counsel of the United Nations on my behalf with the Prime Minister of Lebanon, Fouad Siniora, and with the Commissioner of the Investigation Commission, it is envisaged that the Special Tribunal will commence functioning on 1 March 2009.

II. Location of the seat**A. Headquarters Agreement**

4. In paragraph 6 of my last report, I indicated that, on 21 December 2007, representatives of the United Nations and the Netherlands signed the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon. The Agreement was then submitted by the Government of the Netherlands to Parliament for ratification. On



26 June 2008, the Agreement was approved by the Second Chamber of the Parliament and is currently before the First Chamber. According to article 51 of the Agreement, it applies provisionally from the date of its signature, pending ratification.

B. Premises

5. As I indicated in paragraph 7 of my previous report, the Legal Counsel informed the authorities of the Netherlands on 6 December 2007 that the building identified by them and located in the urban area of The Hague was the preferred site for the Special Tribunal, subject to an agreement on its cost. On 12 December 2007, the States that had made significant contributions or pledges to the funding of the Special Tribunal approved the offer made by the authorities of the Netherlands concerning the cost of the building. On 29 April 2008, the Management Committee of the Special Tribunal agreed to the plans for the refurbishment and adaptation of the premises proposed by the Registrar of the Special Tribunal in consultation with the authorities of the Netherlands.

6. At the beginning of October 2008, work began on the building's external security measures. Interior refurbishment will start in the coming month and should be finished by early March 2009. The construction of the courtroom is expected to begin early in 2009.

III. Appointment of the judges, the Prosecutor and the Registrar and selection of the Head of the Defence Office

7. As stated in paragraph 11 of my second report, I have already finalized the selection process for both international and Lebanese judges. However, I will not proceed with their formal appointment or announce their names until all necessary security measures are in place.

8. On 14 November 2007, I appointed Daniel Bellemare as both Commissioner of the Investigation Commission and Prosecutor of the Special Tribunal. It is anticipated that he will take up his functions as Prosecutor on 1 March 2009 following my determination whether the Special Tribunal may start functioning on that date, in accordance with article 5, paragraph 2, and article 19, paragraph 2, of the annex to resolution 1757 (2007). Mr. Bellemare was appointed to both offices in order to ensure a coordinated transition from the activities of the Investigation Commission to those of the Office of the Prosecutor of the Special Tribunal.

9. On 10 March 2008, I appointed Robin Vincent as Registrar of the Special Tribunal. Mr. Vincent took office in New York on 28 April 2008, and was relocated to The Hague on 7 July 2008 to prepare the premises for occupation.

10. On 17 April 2008, a vacancy announcement for the position of Head of the Defence Office was posted and, in the interest of reaching appropriate audiences, circulated to relevant Bar Associations and to the Registrars of International Tribunals. I am now in the process of establishing a selection panel which will begin its task early in 2009. In accordance with article 13, paragraph 1, of the statute attached to the annex to resolution 1757 (2007), I will appoint the Head of the Defence Office in consultation with the President of the Special Tribunal as soon as the latter has been elected. It is envisaged that the Head of the Defence Office will

assume his or her functions as soon as possible after the Prosecutor takes office, although this may be on an "as needed" basis in the early stages.

IV. Drafting of the Rules of Procedure and Evidence and other necessary legal documents

11. In March 2008, the Legal Counsel constituted a working group of experts to undertake preparatory work on the drafting of the Rules of Procedure and Evidence prior to the judges being convened in plenary to consider the matter. From March to November 2008, the experts prepared an initial version of the Rules of Procedure and Evidence. During the same period, other necessary documents — such as directives on the assignment of defence counsel, the detention of persons awaiting trial and appeal, legal aid policies and agreements on the relocation of witnesses and on enforcement of sentences — were also drafted.

12. This preparatory work should facilitate the completion of the Rules of Procedure and Evidence, and other key documents, once the judges take office, thereby enabling the Special Tribunal to begin its judicial functions soon after it commences functioning.

V. Activities of the Management Committee

13. As mentioned in paragraph 27 of my last report, the Management Committee was established on 13 February 2008. Its function, *inter alia*, is to provide advice and policy direction on all non-judicial aspects of the operation of the Special Tribunal. Pursuant to article II, paragraph I, of its terms of reference, it comprises representatives of the Government of Lebanon and the Government of the Netherlands, as well as representatives of States Members of the United Nations which are significant contributors to the Special Tribunal and are willing to assume the functions referred to in the terms of reference. Currently, the members of the Management Committee are Canada, France, Germany, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland and the United States of America, and a representative of the Secretary-General as an *ex officio* member.

14. Since its establishment, the Management Committee has met on a regular basis and has taken decisions on the following main issues: the Special Tribunal's premises; the financial regulations; aspects of the budget; and the terms and conditions of service of judges and staff.

VI. Preparation of the budget and recruitment of personnel

15. In May 2008, the Management Committee approved a phased approach to the establishment of the budget, allowing first for the approval of the building adaptation costs, then the provision of staffing costs, followed by general operational costs. The costs for the refurbishment of the premises and the staffing table were approved on 29 April and 21 August 2008, respectively. The Management Committee is currently considering the Special Tribunal's proposed operating costs. The budget proposal before the Management Committee totals \$51 million for the

first year, with anticipated expenses of approximately \$65 million each for the second and third years.

16. On 6 March 2008, the Management Committee approved the terms and conditions of service of judges of the Special Tribunal, and the Staff Regulations and Rules were adopted on 7 October 2008.

17. On 15 May 2008, the Special Tribunal submitted its application for membership in the United Nations Joint Staff Pension Fund. In July 2008, the application was approved by the Pension Fund Board subject to confirmation from the Chief Executive Officer that he is satisfied that the conditions of service of the Special Tribunal are aligned to those of the United Nations common system. On 29 October 2008, the Pension Fund Board's report was reviewed by the Advisory Committee on Administrative and Budgetary Questions, and it is currently under consideration by the Fifth Committee of the General Assembly.

18. With respect to personnel, since relocating to The Hague early in July 2008, the Registrar has undertaken the process for the recruitment and appointment of core staff so that the Special Tribunal may soon become operational.

19. Additionally, in accordance with article 17, paragraph (a) of the annex to resolution 1757 (2007), and as explained below, arrangements are being made to ensure a coordinated transition from the Investigation Commission to the Office of the Prosecutor. In September 2008, a Working Group composed of members of the Registry of the Special Tribunal and of the Investigation Commission was created to facilitate a smooth transition.

VII. Arrangements for the transition from the Investigation Commission to the Special Tribunal

20. The Office of Legal Affairs of the Secretariat has been working closely with the Registrar of the Special Tribunal and the Management Committee, and liaising with the Commissioner, to ensure that there will be a coordinated transition from the activities of the Investigation Commission to those of the Office of the Prosecutor, as required under article 17 of the annex to resolution 1757 (2007). The Registrar and the Commissioner have developed plans for this transition to achieve not only efficiency and cost-effectiveness as set out in article 17 but also to ensure that any disruption to the momentum of the Commissioner's investigation resulting from the move from Beirut to The Hague is kept to a minimum.

21. To this end, it is proposed that the transition period should begin on 1 January 2009 and extend to 28 February. By 1 January, the Registrar will have in place the core staff and other essential resources to support the gradual establishment during the transition period of the other organs of the Special Tribunal. In particular, the Registrar and the Commissioner have developed plans for the phased transition from Beirut to The Hague of Investigation Commission staff, who would continue to work as Investigation Commission staff until 28 February 2009. The Registrar will ensure that those staff are able to continue to work effectively during this period to support the Commissioner's ongoing investigation. All practical arrangements will be in place for the Prosecutor to arrive on 1 March 2009 and to continue the investigation with minimum disruption.

22. In accordance with article 19 of the annex to resolution 1757 (2007), the Legal Counsel on my behalf consulted the Prime Minister of Lebanon, who confirmed that he is content for the proposed transition period starting on 1 January 2009, and the build-up in momentum so that the Special Tribunal may commence functioning on 1 March 2009, to be pursued. Also in accordance with article 19, the Legal Counsel on my behalf consulted the Commissioner, who is satisfied that, through a coordinated transition period from 1 January to 28 February 2009, the conditions will be created to enable him to maintain momentum in the investigation and to take up office in The Hague as the Prosecutor on 1 March 2009.

23. It is understood that the Commissioner, in the light of the sequence of events set out above as agreed by him, will be requesting a two-month extension of the mandate of the Investigation Commission so as to ensure that there is no gap between the end of the Investigation Commission's mandate and the commencement of the functioning of the Tribunal and to maintain the momentum of his investigation during the transition period. It is also understood that this sequence of events is subject to the approval of the extension by the Security Council.

VIII. Funding

24. On 19 July 2007, the Secretariat created a Trust Fund to receive contributions for the establishment and activities of the Special Tribunal. As agreed on 5 December 2007 by those States that had made significant contributions or pledges to the funding of the Special Tribunal, once the necessary requirements are in place, all contributions will be transferred to an account of the Special Tribunal. That transfer will enable the Special Tribunal to manage its funds directly and to function independently.

25. The total amount deposited in the Trust Fund to date is approximately \$55.1 million, including interest accrued. Of that amount, \$51.2 million remains available with respect to the first year budget (\$48.1 million in cash, in addition to \$3.1 million currently obligated for expenditure related to infrastructure items included in the first year budget). Disbursements from the Trust Fund totalling \$3.9 million have been made in relation to preparatory work and the presence of an advance team in The Hague.

26. In addition, \$2.3 million has been pledged for each of the second and third years of operation. On 17 November, the Legal Counsel sent a letter to Member States inviting them to make further pledges of financing for the second and third years by 30 November 2008. The Legal Counsel also held a meeting of existing donors on 24 November 2008 to call for those further pledges and for assurances of the continuing commitment of the donors to the financial viability of the Special Tribunal.

27. It is anticipated that the Management Committee will come to a decision during the week beginning 24 November 2008 on the budget for the establishment and the first 12 months of operation of the Special Tribunal. The budget proposal being considered for that period totals \$51 million. On that basis, the Trust Fund has sufficient contributions in hand for the establishment of the Special Tribunal and the first 12 months of operation. Following the further efforts by the Legal Counsel referred to above to increase the amount of pledges of financing, I will make a determination regarding the commencement of the functioning of the Special

Tribunal in accordance with article 5, paragraph 2, of the annex to resolution 1757 (2007).

IX. Security measures

28. To ensure the security of the senior officials and staff of the Special Tribunal, the Registrar is putting in place appropriate security measures in close consultation with the authorities of the Netherlands and Lebanon, as well as with the Department of Safety and Security of the Secretariat.

29. In addition, as mentioned in paragraph 6 above, external security measures for the premises are currently being implemented and should be finalized by early March 2009.

X. Development of a communication and outreach programme

30. The development of a comprehensive outreach programme — the goals of which are to ensure that the Special Tribunal is regarded as an independent and impartial judicial body and to develop the trust of the population of Lebanon and the wider region — has been a priority since the adoption of Security Council resolution 1757 (2007).

31. In this regard, the following steps have been taken during the reporting period:

- (a) A comprehensive communication and outreach strategy is being developed;
- (b) A website for the Special Tribunal is being created;
- (c) A fact sheet on the jurisdiction and organization of the Special Tribunal has been prepared in Arabic, English and French and made available to the media, non-governmental organizations and the public;
- (d) A head of the public affairs and outreach section has been appointed.

XI. The way forward

32. In paragraph 34 of my first report, dated 4 September 2007 (S/2007/525), three phases were envisaged for the establishment of the Special Tribunal, namely, a preparatory phase; a start-up phase; and the commencement of the functioning.

33. In my second report, I stated that all the actions relating to the preparatory phase had been undertaken, if not completed. I also noted that the start-up phase had commenced. I now wish to inform you that the start-up phase is well under way, and the following steps have been taken:

- (a) The work on the preparation of the premises has started;
- (b) The process for the recruitment and appointment of staff has begun;
- (c) A core unit of Registry personnel will soon be established;
- (d) Measures to support the transition from the Investigation Commission to the Office of the Prosecutor are being taken;

(e) Practical arrangements for the Prosecutor to arrive in The Hague on 1 March 2009 and to continue the investigation with the minimum of disruption to the investigation will soon be finalized;

(f) Initial drafts of the Rules of Procedure and Evidence and other basic legal documents have been prepared.

34. In the light of the foregoing, I wish to report that the steps and measures necessary for the Special Tribunal to be operational are well advanced. On the basis of the current budget proposal, the contributions received are sufficient for the commencement and first year of operation of the Special Tribunal, and the Legal Counsel is engaged in ongoing efforts to increase the pledges of financing for the subsequent two years of operation. Against this background, I will be taking a decision regarding the commencement of the Special Tribunal on 1 March 2009, after a transition period starting on 1 January 2009.

XII. Final observations

35. It is my belief that the impending start of the Special Tribunal will send a strong signal that the Government of Lebanon and the United Nations remain committed to ending impunity in Lebanon. The Special Tribunal sets out to deliver the highest standards of international justice and, in that regard, I trust that all Member States will cooperate to achieve its mandate.



**General Assembly
Security Council**

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General Assembly
Sixty-third session
Agenda items 15 and 16

Security Council
Sixty-third year

The situation in the Middle East
Question of Palestine

**Letter dated 24 November 2008 from the Chargé d'affaires a.i.
of the Permanent Mission of Cuba to the United Nations addressed
to the Secretary-General**

In my capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement, I have the honour to enclose herewith the communiqué on the situation in the Occupied Palestinian Territory, including East Jerusalem, adopted by the Coordinating Bureau of the Non-Aligned Movement on 20 November 2008 (see annex).

I request that you kindly circulate the above-mentioned communiqué as a document of the General Assembly, under agenda items 15 and 16, and of the Security Council.

(Signed) Ileana Núñez Mordoche
Ambassador

Chargé d'affaires a.i. of the Permanent Mission of Cuba
to the United Nations
Chair of the Coordinating Bureau of the Non-Aligned Movement



**Annex to the letter dated 24 November 2008 from the Chargé
d'affaires a.i. of the Permanent Mission of Cuba to the
United Nations addressed to the Secretary-General**

**Communiqué on the situation in the Occupied Palestinian
Territory, including East Jerusalem, adopted by the Coordinating
Bureau of the Non-Aligned Movement on 20 November 2008**

The Coordinating Bureau of the Non-Aligned Movement met in New York at United Nations Headquarters on 12 November 2008 and considered, *inter alia*, the situation in the Occupied Palestinian Territory, including East Jerusalem.

The members of the Non-Aligned Movement (NAM) express their serious concerns regarding the deterioration of the situation on the ground and the extensive hardships being endured by the Palestinian people as a result of ongoing violations of international law, including humanitarian and human rights law, by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem. NAM also expresses concern at the lack of progress made in the peace process in the year that has passed since the Annapolis Conference, which generated momentum and high expectations for advancement of the process towards the achievement of a just, lasting and peaceful resolution of the question of Palestine, the core of the Arab-Israeli conflict.

NAM expresses grave concern about Israel's continued use of military force against the Palestinian civilian population in the Occupied Palestinian Territory, which continues to cause death and injury to civilians, including children, and destruction to Palestinian property and infrastructure, as well as its continued collective punishment of the Palestinian people by measures that constitute grave breaches of international humanitarian law, violate virtually all of the human rights of the Palestinian people, and continue to devastate socio-economic conditions.

NAM expresses particular concern about the dire humanitarian crisis in the Gaza Strip and reiterates its call for the immediate lifting of Israel's inhumane closure and siege of Gaza, by which it continues to obstruct the movement of persons and goods, including food, medical, fuel and other essential supplies. In addition, NAM calls again on the occupying Power to remove the hundreds of checkpoints and obstacles that are restricting freedom of movement in the West Bank, causing serious damage to the Palestinian economy and severely undermining the Territory's contiguity and integrity.

NAM also expresses grave concern about Israel's continuing settlement campaign in the Occupied Palestinian Territory, especially in and around East Jerusalem. In grave violation of international law and its commitments in the peace process, Israel continues and has accelerated its confiscation of Palestinian land, construction and expansion of settlements and the Wall and its transfer of Israeli settlers to the Occupied Palestinian Territory. NAM condemns Israel's illegal settlement activities, which are undermining the peace process and seriously threatening the viability of the two-State solution of Palestine and Israel living side by side in peace and security, and reiterates the call for their immediate cessation. NAM also expresses its alarm at the rising incidence of Israeli settler violence, harassment and intimidation against Palestinian civilians and their properties and calls upon the occupying Power to take all necessary measures to bring an end to the

settler violence and lawlessness and to hold the perpetrators of crimes against Palestinian civilians accountable for their actions.

In the light of this critical situation on the ground and lack of progress in the peace process, NAM urges all concerned parties, including the Quartet, to exert the necessary efforts to bring a halt to Israel's illegal practices, including its settlement activities and collective punishment measures, in order to stem the deterioration of the situation, alleviate the humanitarian crisis being faced by the Palestinian people, and create conditions on the ground that are conducive to the advancement of the peace process and its ultimate success.

NAM stresses that the current transitional period is also a fragile period in which the international community, including the Security Council, must not remain complacent and must be active in shouldering its legal, political and moral responsibilities vis-à-vis the question of Palestine and redoubling its commitment and efforts in support of the peace process negotiations towards the achievement of a just and lasting peace settlement, including a just solution for the plight of the Palestine refugees.

Finally, on the forthcoming occasion of the International Day of Solidarity with the Palestine People and on the occasion of the commemoration by the Palestinian people of the twentieth anniversary of their Declaration of Independence on 15 November, NAM takes this opportunity to reaffirm its unwavering support for and solidarity with the Palestinian people and their just cause. NAM further reaffirms its long-standing principled positions calling, inter alia, for an end to the Israeli occupation of the Palestinian and other Arab lands occupied since 1967, the realization by the Palestinian people of their right to self-determination, the establishment of their independent State of Palestine with East Jerusalem as its capital, and the achievement of a just, lasting and comprehensive peace in the Middle East.



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The situation in the Middle East
Question of Palestine

**Identical letters dated 25 November 2008 from the
Permanent Representative of the Syrian Arab Republic to the
United Nations addressed to the Secretary-General and the
President of the Security Council**

I have the honour to transmit herewith a letter addressed to H.E. Ban Ki-moon, Secretary-General of the United Nations, from H.E. Walid Al-Moualem, Minister for Foreign Affairs of the Syrian Arab Republic, regarding the severe humanitarian situation in Gaza (see annex).

I would highly appreciate it if the present letter and its annex were circulated as a document of the General Assembly, under agenda items 15 and 16, and of the Security Council.

(Signed) **Bashar Ja'afari**
Ambassador
Permanent Representative



**Annex to the identical letters dated 25 November 2008 from the
Permanent Representative of the Syrian Arab Republic to the
United Nations addressed to the Secretary-General and the
President of the Security Council**

[Original: Arabic]

Israel is continuing to carry out its policy of aggression, blockade and starvation against the Palestinian people in the Gaza Strip in grave violation of international law, conventions and principles. In view of the escalating humanitarian tragedy that is taking place in the Gaza Strip as a consequence of the oppressive Israeli blockade, I have been charged by Mr. Bashar Al-Assad, President of the Syrian Arab Republic in his capacity as Chairman of the Arab Summit, to write to you concerning the assumption by the Organization of its responsibility to prevail on Israel to desist immediately from its immoral and inhuman practices which are a clear violation of international law and principles.

The blockade imposed by Israel on the Gaza Strip and the total closure of all crossing points have led to a grave deterioration of various aspects of life in Gaza, have exacerbated the humanitarian situation and increased the suffering of the Palestinians as a consequence of the policy of collective punishment to which they have been subjected, consisting in cutting off the supply of electricity, fuel and drinking water and spreading poverty, hunger and unemployment.

The life of the Palestinians in the Gaza Strip is threatened by this blockade; hospitals use candles for lighting, and flour mills have begun to use birdseed to produce flour for making bread. There is also an acute shortage of food and fuel and as a consequence the lives of hundreds of sick people in the Gaza Strip, particularly children, are in serious jeopardy as a result of the electricity cuts and the lack of basic medicines. To date, 260 people have died as a result of the blockade, including 57 children.

Despite the efforts of the Secretary-General of the United Nations and repeated appeals to the Israeli occupying authorities to cease these practices they have not so far heeded them. Consequently, we look to you to take immediate action to address this humanitarian disaster, which is no less serious than other humanitarian disasters on which the United Nations has taken action, and to exert pressure on Israel to open the crossing points immediately and to allow the entry into the Gaza Strip of medical supplies, food and fuel so that more than one and a half million Palestinians can have access to them.

Accept, Sir, the assurances of my highest consideration.

(Signed) Walid Al-Moualem
Minister for Foreign Affairs of the Syrian Arab Republic

Damascus, 25 November 2008

**Security Council**

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**Report of the Secretary-General on the United Nations
Disengagement Observer Force for the period from
1 July 2008 to 31 December 2008****I. Introduction**

1. The present report gives an account of the activities of the United Nations Disengagement Observer Force (UNDOF) during the past six months pursuant to the mandate contained in Security Council resolution 350 (1974) and extended in subsequent resolutions, most recently resolution 1821 (2008) of 27 June 2008.

II. Situation in the area and activities of the Force

2. During the period under review the ceasefire in the Israel-Syria sector was maintained and the UNDOF area of operation remained generally quiet. UNDOF supervised the area of separation by means of fixed positions and patrols to ensure that military forces of either party were excluded from it. The Force also carried out fortnightly inspections of equipment and force levels in the areas of limitation. Liaison officers from the party concerned accompanied the inspection teams. As in the past, both sides denied inspection teams access to some of their positions and imposed restrictions on the Force's freedom of movement. UNDOF continued to adapt its operational posture to the ongoing Israel Defense Forces (IDF) training activities in the area of limitation on the Alpha side and Syrian civilian settlement growth in proximity to the ceasefire line in the area of separation. Both sides continued to construct new and renovate existing defensive positions in the respective areas of limitation. The security forces of both sides also undertook anti-smuggling actions. Israeli national Customs officials continue to operate periodically at the IDF post at the UNDOF crossing gate between the Israeli-occupied Golan and the Syrian Arab Republic. Both parties took steps to ease limitations on the movement of UNDOF supplies through the Alpha and Bravo gates.

3. The Force continued to assist the International Committee of the Red Cross with the passage of persons through the area of separation. During the past six months, UNDOF has assisted in the crossing of 536 students, 388 pilgrims, 1 bride, 5 civilians and the mortal remains of 1 person. UNDOF also provided medical treatment to 183 civilians.



4. In the area of operation, especially in the area of separation, mines continued to pose a threat to UNDOF personnel and local inhabitants. Owing to the long-term presence of the mines and the deterioration of their detonation systems, the threat has increased. UNDOF continued to carry out operational mine clearance. UNDOF remained available to support the United Nations Children's Fund in activities to promote mine awareness among the civilian population.

5. The Force Commander and his staff maintained close contact with the military authorities of Israel and of the Syrian Arab Republic. Both sides generally cooperated with the Force in the execution of its tasks.

6. As at 15 November 2008, UNDOF comprised 1,039 troops, from Austria (381), Canada (2), Croatia (95), India (188), Japan (30) and Poland (343). A total of 15 personnel were employed by Japan as a national support element. In addition, 75 military observers from the United Nations Truce Supervision Organization (UNTSO) assisted the Force in carrying out its tasks.

III. Financial aspects

7. The General Assembly, by its resolution 62/264 of 20 June 2008, appropriated the amount of \$45.7 million for the maintenance of UNDOF for the period from 1 July 2008 to 30 June 2009. Therefore, should the Security Council approve my recommendation set out in paragraph 12 below with respect to the extension of the mandate of UNDOF, the cost for the maintenance of the Force during the extension period will be limited to resources approved by the General Assembly.

8. As at 30 September 2008, unpaid assessed contributions to the special account for UNDOF amounted to \$23.7 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to \$4,014.1 million. As at 31 October 2008, amounts owed to troop contributors to UNDOF totalled \$2.4 million. Reimbursement of troop and contingent-owned equipment costs have been made for the period up to August and June 2008, respectively, in accordance with the quarterly payment schedule.

IV. Implementation of Security Council resolution 338 (1973)

9. The Security Council, when deciding in its resolution 1821 (2008) to renew the mandate of UNDOF for a further period of six months, until 31 December 2008, also called upon the parties concerned to implement immediately its resolution 338 (1973) and requested me to submit, at the end of the period, a report on developments in the situation and the measures taken to implement that resolution. The search for a peaceful settlement in the Middle East, in particular the efforts undertaken at various levels to implement resolution 338 (1973), was dealt with in my report on the situation in the Middle East submitted pursuant to General Assembly resolutions 62/84 and 62/85 (A/63/361).

V. Observations

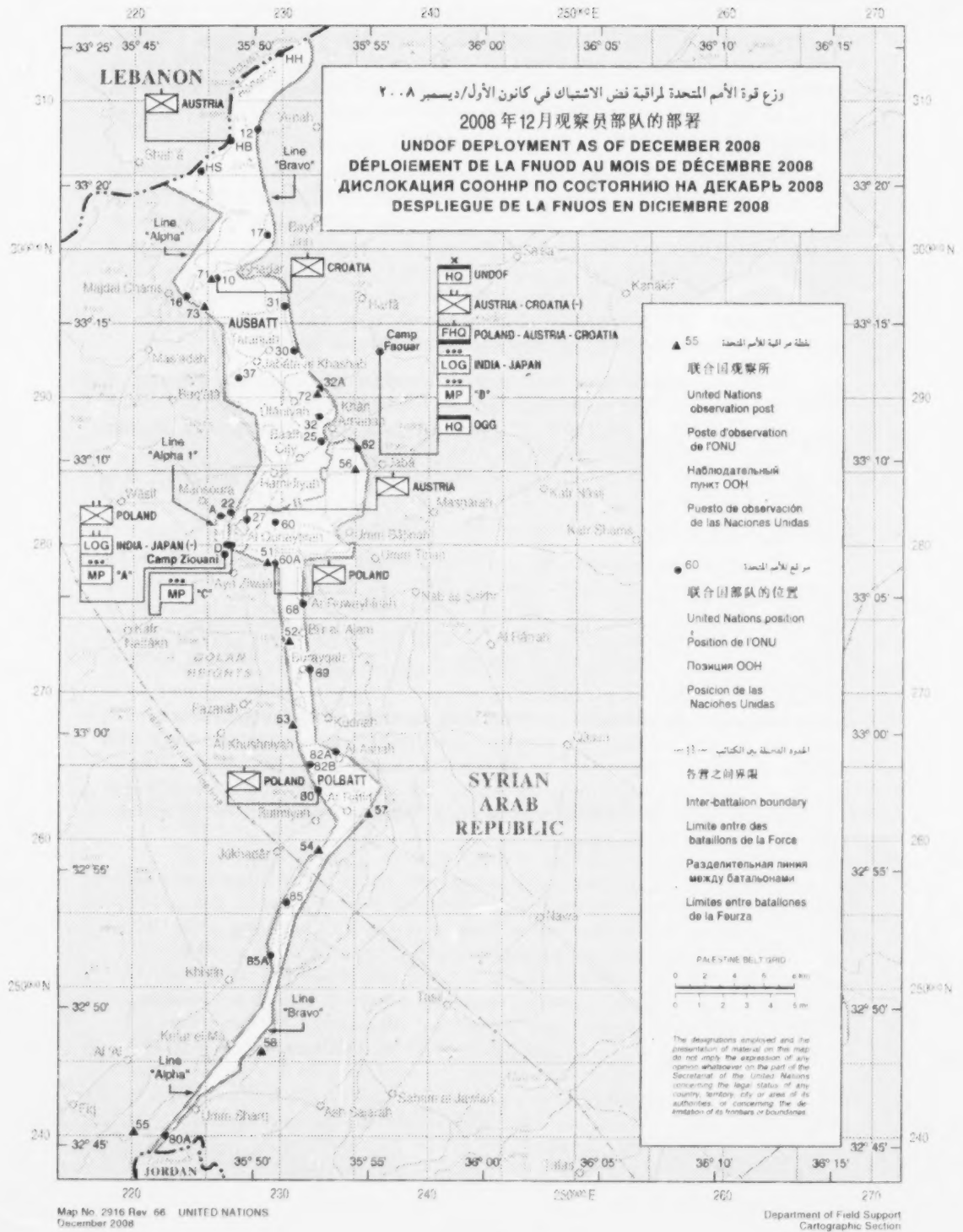
10. The situation in the Israel-Syria sector has remained generally quiet. UNDOF, which was established in May 1974 to supervise the ceasefire called for by the Security Council and the agreement on disengagement between Syrian and Israeli forces of 31 May 1974, has continued to perform its functions effectively, with the cooperation of the parties.

11. Nevertheless, the situation in the Middle East is tense and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached. I hope that determined efforts will be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Security Council in its resolution 338 (1973). In this context, I encourage the parties to resume the indirect peace talks initiated under the auspices of Turkey, aimed at a comprehensive peace in accordance with the Madrid Conference terms of reference for peace.

12. Under the prevailing circumstances, I consider the continued presence of UNDOF in the area to be essential. I therefore recommend that the Security Council extend the mandate of the Force for a further period of six months, until 30 June 2009. The Government of the Syrian Arab Republic has given its assent to the proposed extension. The Government of Israel has also expressed its agreement. It is hoped that both sides will continue to make efforts to ease the limitations on the mobility of the Force and the movement of its supplies.

13. In making this recommendation, I must draw attention to the shortfall in the funding of the Force. As at 30 September 2008, unpaid assessments amounted to \$23.7 million. At the same time, as at 31 October 2008, \$2.4 million was owed to the troop contributors to UNDOF. The outstanding contributions impede the ability of the Secretariat to support the operations of the Force and to reimburse Member States contributing troops to the Force.

14. In conclusion, I wish to pay tribute to Major General Wolfgang Jilke and to the men and women serving with UNDOF and UNTSO. They have performed with efficiency and devotion to duty the important tasks assigned to them by the Security Council. I take this opportunity to express my appreciation to the Governments contributing troops to UNDOF, and to those which provide the UNTSO military observers assigned to the Force.





Security Council

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Letter dated 26 November 2008 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General

I have the honour to forward to you the attached concept paper for the Security Council meeting on "Threats to international peace and security caused by terrorist acts", to be held on 9 December 2008 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Neven **Jurica**
Ambassador
Permanent Representative



**Annex to the letter dated 26 November 2008 from the
Permanent Representative of Croatia to the United Nations
addressed to the Secretary-General**

**Croatian Presidency of the Security Council (December 2008)
“Threats to international peace and security caused by
terrorist acts”**

**Concept paper for the thematic Security Council debate on “Global Security
and International Terrorism” to be held on 9 December 2008**

1. In its capacity as the country holding the Security Council Presidency in December 2008, Croatia would like to invite Council members and representatives of the broad international community to engage in an open and specific exchange of views on the relation between global terrorism and international security. The main goal of this debate would be to revitalize and strengthen international solidarity in combating this threat, including the strengthening of the United Nations leading role in global counter-terrorism efforts.
2. As the Chairman of the Security Council Counter-Terrorism Committee and one of the first promoters of the Global Anti-Terrorist Coalition, the Republic of Croatia strongly condemns international terrorism in all its forms and manifestations, and, bearing in mind the danger of terrorism converging with other threats to international peace and security — such as the proliferation of weapons of mass destruction, transnational organized crime and cyber-terrorism — urges even stronger global cooperation in the suppression of this latter-day scourge.
3. At its root, terrorism opposes the fundamental values of humanity enshrined in the Charter of the United Nations and essential human rights documents. While often hiding behind the mask of religious fundamentalism, it is in sharp contrast to the very foundations of every religion. Economic imbalances and social handicaps, from poverty to limited resources, are unresolved issues favouring the spread of terrorism, while civilization, cultural and traditional divisions and misunderstandings add new and dangerous dimensions to global insecurity.
4. This asymmetric threat cannot be eliminated merely by waging war against it. Quite the contrary — it is a continuously evolving phenomenon which requires a flexible multidimensional approach covering a broad spectrum of specific, traditional counter-terrorism steps as well as preventive measures and policies, including the elimination of conditions which favour or facilitate the recruitment of potential terrorists. It goes without saying that all counter-terrorism activities must abide by established international legal standards.
5. Today, seven years after the terrible events which resulted in unprecedented international solidarity, the world is faced with an entirely different situation. In the aftermath of these events, the significant increase of international terrorist acts has given rise to an ill atmosphere of suspicion, mistrust, serious infringement of human rights, and religious and cultural intolerance.
6. The Security Council has put a great deal of effort into reaching an important consensus required for the adoption of a major set of new resolutions renewing and, even more importantly, updating the work of its bodies engaged in counter-terrorism activities. These committees, one of which Croatia is privileged to chair, and their

expert bodies are among the most important cornerstones of the United Nations counter-terrorism mechanism.

7. Similarly, the General Assembly has reviewed the implementation of the United Nations Global Counter-Terrorism Strategy, and appreciated both the results and the future goals of the Counter-Terrorism Implementation Task Force. Moreover, due credit has to be given to the energy and inventiveness of many regional organizations and initiatives, including the special role of the Alliance of Civilizations, without which the efficient implementation of counter-terrorism measures would indeed be very difficult.

8. Although undeniably important strategic counter-terrorism guidance was adopted two years ago, it is clear that specific follow-up has not followed the desired time frame. In this regard, many comments refer to the lack of guidance and cooperation between Member States and the United Nations. Unity and coherence within the United Nations ought to be promoted, and due advantage taken of the specific strength of its bodies.

9. Finally, we must send a strong message confirming our determination and unity in the fight against terrorism under the umbrella of the United Nations, which plays a central role in its suppression. Equally important, terrorism must once and for all be dissociated from any nation, religion or belief, civilization or culture.

Possible outcome:

The adoption of a presidential statement calling for, among other things, the reaffirmation of international solidarity in combating terrorism and urging more energetic counter-terrorism efforts by Member States.



Security Council

Distr.: General
28 November 2008

Original: English

**Letter dated 25 November 2008 from the Permanent
Representative of the Sudan to the United Nations addressed
to the President of the Security Council**

It gives me great pleasure to transmit herewith the decision of the Ministry of Humanitarian Affairs on the extension of the moratorium facilitating humanitarian aid to Darfur until 31 January 2010 (see annex).

I would be grateful, Your Excellency, if this letter and its annex were issued as a document of the Security Council.

(Signed) Abdalmahmood Abdalhaleem **Mohamad**
Permanent Representative



Annex to the letter dated 25 November 2008 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

[Original: Arabic]

Ministry of Humanitarian Affairs

Office of the Minister

Date: 16 November 2008

No.: *waw shin alif/mim zay/qaf/6*

Ministerial decision No. 6 of 2008

Title: Decision to extend fast-tracking for Darfur

1. The Ministry of Humanitarian Affairs, seeking to enhance humanitarian conditions in Darfur, and on the basis of the joint communiqué between the Government of the Sudan and the United Nations regarding the facilitation of the flow of humanitarian aid to Darfur and the provision of facilities to humanitarian aid partners, including United Nations organizations and agencies and donors;
2. Therefore decides:
 - (a) To extend fast-track measures for Darfur until 31 January 2010;
 - (b) The agencies concerned shall work under this decision and shall implement the fast-track measures in accordance with the general procedure guide.
3. This decision shall enter into force from the date on which it was signed.

Issued under my hand on the sixteenth day of November 2008 (14 Dhu'lqa'dah A.H. 1429).

(Signed) Harun Lual Ron
Minister of Humanitarian Affairs